

By Mr. PARSONS: Petition of the Domestic Circle, of New York City, for pure-food legislation—to the Committee on Interstate and Foreign Commerce.

By Mr. WM. ALDEN SMITH: Petition of the First Congregational Church of Portland, Mich., for investigation of the conduct of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. SPERRY: Petition of citizens of New Haven, Conn., for bill H. R. 16548, for a judicial review of the fraud order by Post-Office Department—to the Committee on the Judiciary.

SENATE.

TUESDAY, May 8, 1906.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. DUBOIS, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

LANDS IN NEW MEXICO.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of the General Land Office inclosing a report of the investigation of the contract for the sale of certain lands belonging to the Territory of New Mexico, and stating that Congress alone has the power to enforce the conditions of the grant; which, with the accompanying papers, was referred to the Committee on Public Lands, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 2140. An act to authorize the Postmaster-General to dispose of useless papers in post-offices;

S. 2801. An act to withhold from sale a portion of Fort Brady Military Reservation, at Sault Ste. Marie, Mich.;

S. 3436. An act to provide for the settlement of a claim of the United States against the State of Michigan for moneys held by said State as trustee for the United States in connection with St. Marys Falls Ship Canal;

S. 3522. An act to amend an act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905;

S. 5203. An act granting to the Chicago, Milwaukee and St. Paul Railway Company, of Montana, a right of way through the Fort Keogh Military Reservation in Montana, and for other purposes;

S. 5537. An act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska;

S. 5572. An act to amend section 4348 of the Revised Statutes, establishing great coasting districts of the United States;

S. 5796. An act to authorize the construction of a bridge across the Missouri River and to establish it as a post-road;

S. 5890. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee;

S. 5891. An act to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee; and

S. 5943. An act to authorize the Minnesota, Dakota and Pacific Railway Company to construct a bridge across the Missouri River.

The message also announced that the House had passed the bill (S. 1975) granting an increase of pension to Mary E. Dugger, with an amendment in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, with amendments in which it requested the concurrence of the Senate:

S. 2202. An act for the relief of certain entrymen and settlers within the limits of the Northern Pacific Railway land grant;

S. 2296. An act restoring to the public domain certain lands in the State of Minnesota;

S. 4094. An act to amend section 4426 of the Revised Statutes of the United States—regulation of motor boats;

S. 4976. An act to grant certain land to the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives;

S. 5498. An act granting additional lands from the Fort Douglas Military Reservation to the University of Utah; and

S. 5683. An act to provide for the removal of derelicts and other floating dangers to navigation.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 13783) to provide souvenir medallions for the Zebulon Montgomery Pike Monument Association.

The message further announced that the House had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

H. R. 4546. An act ceding to the city of Canon City, Colo., certain lands for park purposes;

H. R. 5290. An act providing for the allotment and distribution of Indian tribal funds;

H. R. 7065. An act to amend section 858 of the Revised Statutes of the United States;

H. R. 8976. An act to change the line of the reservation at Hot Springs, Ark., and of Reserve avenue;

H. R. 10106. An act providing for the setting aside for governmental purposes of certain ground in Hilo, Hawaii;

H. R. 10133. An act to provide for the annual pro rata distribution of the annuities of the Sac and Fox Indians of the Mississippi between the two branches of the tribe, and to adjust the existing claims between the two branches as to said annuities;

H. R. 11787. An act ratifying and approving an act to appropriate money for the purpose of building additional buildings for the Northwestern Normal School, at Alva, in Oklahoma Territory, passed by the legislative assembly of Oklahoma Territory, and approved the 15th day of March, 1905;

H. R. 13543. An act for the protection and regulation of the fisheries of Alaska;

H. R. 14410. An act to amend an act approved August 3, 1894, entitled "An act concerning leases in the Yellowstone National Park;"

H. R. 14968. An act to amend the internal-revenue laws, so as to provide publicity of its records;

H. R. 15078. An act granting to the Ocean Shore Railway Company a right of way for railroad purposes across Pigeon Point Light-House Reservation, in San Mateo County, Cal.;

H. R. 15095. An act authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvement at the expense of persons, companies, or corporations;

H. R. 16307. An act authorizing the Secretary of the Interior to have a survey made of unsurveyed public lands in the State of Louisiana;

H. R. 16672. An act to punish cutting, chipping, or boxing of trees on the public lands;

H. R. 17114. An act to provide for the disposition under the public land laws of the lands in the abandoned Fort Shaw Military Reservation, Mont.;

H. R. 17127. An act to provide for the subdivision and sale of certain lands in the State of Washington;

H. R. 17411. An act for the resurvey of certain townships in the State of Nebraska;

H. R. 17948. An act restricting in certain cases the right of appeal to the Supreme Court in habeas corpus proceedings;

H. R. 17982. An act to grant to Charles H. Cornell, his assigns and successors, the right to abut a dam across the Niobrara River on the Fort Niobrara Military Reservation, Nebr., and to construct and operate a trolley or electric railway line and telegraph and telephone line across said reservation;

H. R. 18204. An act to authorize the Northampton and Halifax Bridge Company to construct a bridge across the Roanoke River at or near Weldon, N. C.;

H. R. 18328. An act to regulate the practice in certain civil and criminal cases in the western district of Arkansas;

H. R. 18330. An act transferring the county of Clinton, in the State of Iowa, from the northern judicial district of Iowa to the southern judicial district of Iowa;

H. R. 18435. An act to authorize the Secretary of Commerce and Labor to cooperate, through the Bureau of the Coast and Geodetic Survey and the Bureau of Fisheries, with the shellfish commissioners of the State of Maryland in making surveys of the natural oyster beds, bars, and rocks in the waters within the State of Maryland;

H. R. 18439. An act to authorize the construction of a bridge across the Tallahatchie River, in Tallahatchie County, Miss.;

H. R. 18443. An act to amend the act to provide a government for the Territory of Hawaii, approved April 30, 1900;

H. R. 18502. An act to empower the Secretary of War, under certain restrictions, to authorize the construction, extension, and maintenance of wharves, piers, and other structures on lands underlying harbor areas and navigable streams and bodies of waters in or surrounding Porto Rico and the islands adjacent thereto;

H. R. 18536. An act providing for the subdivision of lands entered under the reclamation act, and for other purposes;

H. R. 18713. An act to validate certain certificates of naturalization;

H. J. Res. 118. Joint resolution accepting the recession by the State of California of the Yosemite Valley grant and the Mariposa Big Tree Grove, and including the same, together with fractional sections 5 and 6, township 5 south, range 22 east, Mount Diablo meridian, California, within the metes and bounds of the Yosemite National Park, and changing the boundaries thereof; and

H. J. Res. 134. Joint resolution authorizing the construction and maintenance of wharves, piers, and other structures in Lake Michigan adjoining certain lands in Lake County, Ind.

The message also announced that the House had passed a concurrent resolution requesting the President of the United States to return to the House the bill (H. R. 8948) entitled "An act granting an increase of pension to John W. Hammond;" in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Manufacturers' Club of Fort Wayne, Ind., praying for the removal of the internal-revenue tax on denatured alcohol; which was referred to the Committee on Finance.

He also presented a petition of sundry citizens of Durant, Choctaw Nation, Ind. T., praying for the enactment of legislation for the removal of restrictions on the right to alienate land in the Indian Territory; which was referred to the Committee on Indian Affairs.

He also presented the petition of Liliuokalani, ex-Queen of the Hawaiian Islands, praying for the consideration of her claim before Congress; which was referred to the Committee on Claims.

He also presented a petition of the Manufacturers' Club of Fort Wayne, Ind., praying for the enactment of legislation to remove the duty on denatured alcohol; which was referred to the Committee on Finance.

Mr. PLATT presented a petition of the National Bank of Rochester, of the Traders' National Bank, and of the National Bank of Commerce, all of Rochester, in the State of New York, praying for the enactment of legislation to amend section 5200, Revised Statutes of the United States, relating to national banks; which was ordered to lie on the table.

He also presented a petition of Local Council No. 37, Junior Order of United American Mechanics, of Riverhead, N. Y., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

Mr. SCOTT presented a petition of Harmon Grange, No. 151, Patrons of Husbandry, of Ashton, W. Va., praying for the enactment of legislation to remove the duty on denatured alcohol; which was referred to the Committee on Finance.

Mr. HOPKINS presented petitions of sundry citizens of Chicago, Aurora, Monmouth, Manito, Harvey, Rockford, Freeport, Elgin, Hoopston, Batavia, Moline, and Racine, all in the State of Illinois, praying for the enactment of legislation to remove the duty on denatured alcohol; which were referred to the Committee on Finance.

Mr. DUBOIS presented a petition of the Woman's Interdenominational Missionary Union of the District of Columbia, praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Woman's Interdenominational Missionary Union of the District of Columbia, praying for the enactment of legislation to protect the first day of the week as a day of rest in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Woman's Interdenominational Missionary Union of the District of Columbia, praying for the enactment of legislation providing for the closing on Sunday of the Jamestown Exposition; which was referred to the Select Committee on Industrial Expositions.

Mr. BURKETT presented a petition from the Nebraska Federation of Women's Clubs, praying for an investigation into the industrial condition of the women of the country; which was referred to the Committee on Education and Labor.

Mr. RAYNER presented a petition of sundry citizens of the State of Maryland, praying for the enactment of legislation to remove the duty on denatured alcohol; which was referred to the Committee on Finance.

Mr. ELKINS presented a memorial of Shattuck & Jackson Company, of Parkersburg, W. Va., remonstrating against the passage of the so-called "anti-injunction bill;" which was referred to the Committee on the Judiciary.

He also presented the petition of J. L. Springston, of Vland, Ind. T., praying for the enactment of legislation granting relief for certain conditions existing in the Indian Territory; which was referred to the Committee on Indian Affairs.

He also presented a memorial of Bluestone Council, No. 110, United Commercial Travelers, of Bluefield, W. Va., remonstrating against the enactment of legislation to consolidate third and fourth class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry pharmacists and physicians of Jefferson County, W. Va., praying for the enactment of legislation to amend certain sections of the Revised Statutes relating to patents; which was referred to the Committee on Patents.

REPORTS OF COMMITTEES.

Mr. McCUMBER (for Mr. PATTERSON), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 718) granting an increase of pension to Hamilton D. Brown;

A bill (H. R. 18005) granting a pension to Emily Compton;

A bill (H. R. 18006) granting an increase of pension to Martha J. Bass;

A bill (H. R. 4363) granting an increase of pension to Thomas D. Campbell;

A bill (H. R. 4388) granting a pension to Laura Hilgeman;

A bill (H. R. 4625) granting an increase of pension to Anderson J. Smith;

A bill (H. R. 10246) granting an increase of pension to John Harrison;

A bill (H. R. 12088) granting an increase of pension to Louisa Spielman;

A bill (H. R. 15152) granting an increase of pension to Mary T. Corns; and

A bill (H. R. 15886) granting an increase of pension to John Misner.

Mr. BURKETT, from the Committee on Claims, to whom was referred the bill (H. R. 5217) for the relief of Agnes W. Hills and Sarah J. Hills, reported it without amendment, and submitted a report thereon.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5559) granting an increase of pension to Ann H. Crofton;

A bill (S. 5969) granting an increase of pension to Franklin Burdick; and

A bill (S. 4372) granting an increase of pension to Emily P. Hubbard.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4719) granting an increase of pension to John Joines;

A bill (H. R. 2155) granting an increase of pension to William H. Smith;

A bill (H. R. 10525) granting an increase of pension to Artemas D. Many;

A bill (H. R. 10524) granting an increase of pension to Ebenezer W. Akerley;

A bill (H. R. 13809) granting an increase of pension to James P. Tucker;

A bill (H. R. 14237) granting an increase of pension to Isaac Kindle;

A bill (H. R. 15206) granting an increase of pension to Peter G. Thompson;

A bill (H. R. 15565) granting an increase of pension to Josias R. King; and

A bill (H. R. 17635) granting an increase of pension to George Willy.

Mr. HOPKINS, from the Committee on Fisheries, to whom was referred the bill (S. 5986) for the establishment of a fish-cultural station in the State of Florida, reported it without amendment, and submitted a report thereon.

Mr. PILES, from the Committee on Territories, to whom was referred the bill (S. 5901) to extend the time for the completion of the Alaska Central Railway, and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5804) granting an increase of pension to Joseph A. Noyes;

A bill (H. R. 4406) granting a pension to Albert M. Ryan;

A bill (H. R. 5732) granting an increase of pension to Elias C. Kitchin;

A bill (H. R. 8547) granting an increase of pension to John W. Madison;

A bill (H. R. 10319) granting an increase of pension to Harvey Deal;

A bill (H. R. 14490) granting an increase of pension to Martha A. Kenney;

A bill (H. R. 15275) granting an increase of pension to Jehu Martin;

A bill (H. R. 15450) granting an increase of pension to Virginia J. D. Holmes; and

A bill (H. R. 16193) granting an increase of pension to Daniel Shrader.

Mr. ALDRICH, from the Committee on Interstate Commerce, to whom was referred the bill (H. R. 14604) forbidding the importation, exportation, or carriage in interstate commerce of falsely or spurious stamped articles of merchandise made of gold or silver or their alloys, and for other purposes, reported it with amendments.

CHARLES HUNSLEY.

Mr. McCUMBER. From the Committee on Pensions I desire to make an additional oral report, merely announcing the death of the beneficiary of the bill (S. 5798) granting an increase of pension to Charles Hunsley. The bill is on the Calendar, and I move that it be indefinitely postponed.

The motion was agreed to.

BILLS INTRODUCED.

Mr. CLARK of Wyoming introduced a bill (S. 6064) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WETMORE introduced a bill (S. 6065) granting an increase of pension to Ellen M. Dyer; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PERKINS introduced a bill (S. 6066) for the relief of ship keepers at the Mare Island Navy-Yard, Cal.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6067) to reimburse the State of California for moneys expended in placing at the disposal of the United States 18,715 volunteer troops between 1861 and 1865; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6068) to correct the military record of Conrad Hyne; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. McLAURIN introduced a bill (S. 6069) for the relief of the estate of Mary F. Birdsong, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. FOSTER introduced a bill (S. 6070) for the relief of Mrs. Gabriel Le Breton Deschappelles; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURKETT introduced a bill (S. 6071) granting an increase of pension to George W. Patton; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TILLMAN introduced a bill (S. 6072) for the relief of the trustees of Ebenezer Methodist Episcopal Church South, of Hampton County, S. C.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6073) for the relief of the trustees of the Baptist Church of Hardeeville, S. C.; which was read twice by its title, and referred to the Committee on Claims.

Mr. FLINT introduced a bill (S. 6074) for the relief of the State of California; which was read twice by its title, and referred to the Committee on Claims.

Mr. CRANE introduced a bill (S. 6075) to regulate the salaries of letter carriers in free-delivery offices; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. WARNER introduced a bill (S. 6076) granting an increase of pension to John McKnight; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 6077) granting a pension to William H. Tate; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FRAZIER introduced a bill (S. 6078) granting an increase of pension to Elijah B. Hudson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 6079) for the relief of Mrs. George M. Goodwin; which was read twice by its title, and,

with the accompanying papers, referred to the Committee on Claims.

Mr. ELKINS introduced a bill (S. 6080) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a bill (S. 6081) for the relief of the heirs of David H. Strother, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6082) for the relief of Stephen A. West; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6083) granting a pension to George W. Johnson; and

A bill (S. 6084) granting an increase of pension to John K. Whitford.

Mr. McCREARY introduced a bill (S. 6085) making an appropriation for the construction of locks and dams numbered 12 and 13 on the Kentucky River; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 6086) making an appropriation for the construction of dams at Lock No. 1, Tug Fork, and Lock No. 1, Levisa Fork, of the Big Sandy River; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 6087) granting an increase of pension to Sallie B. Welch; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6088) for the relief of the Madison Female Institute, of Richmond, Ky.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6089) for the relief of the Cumberland Presbyterian Church, of Russellville, Ky.; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. FLINT introduced a joint resolution (S. R. 54) authorizing a change in the weighing of the mails in the fourth section; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

PUBLIC BUILDING AT VERSAILLES, KY.

Mr. SCOTT. Before the morning business is closed, I should like to call up, by unanimous consent, the bill (S. 4956) to provide for the purchase of a site and the erection of a building at Versailles, in the State of Kentucky. I am sure there is not a Senator on this floor who will object to the bill when he knows the character of it.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Public Buildings and Grounds with an amendment, on page 2, after line 5, to strike out the following words:

No money shall be used for the purpose mentioned until a valid title to the site of said building shall be vested in the United States, nor until the State of Kentucky shall have ceded to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

So as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site, and cause to be erected thereon a suitable building, including heating and ventilating apparatus, for the use and accommodation of the United States post-office and other Government offices, in the city of Versailles and State of Kentucky, the cost of said site and building, including said heating and ventilating apparatus, complete, not to exceed \$25,000.

Proposals for the sale of land suitable for said site shall be invited by public advertisement in one or more of the newspapers of said city of largest circulation for at least twenty days prior to the date specified in said advertisement for the opening of said proposals.

The building shall be unexposed to danger from fire by an open space of at least 40 feet on each side, including streets and alleys.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

STATUE OF GOVERNOR STEVENS T. MASON, OF MICHIGAN.

Mr. ALGER. I ask unanimous consent for the present consideration of the joint resolution (S. R. 47) granting condemned cannon for a statue to Governor Stevens T. Mason, of Michigan.

The Secretary read the joint resolution; and there being no

objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of War to deliver to the governor of the State of Michigan six bronze or brass condemned cannon, to be used to make a life-size statue of Stevens T. Mason, late governor of Michigan.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FORTIFICATION OF PURE SWEET WINES.

Mr. FLINT. I ask unanimous consent for the present consideration of the bill (H. R. 15266) to amend existing laws relative to the fortification of pure sweet wines.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

Mr. SCOTT. Is there a report from the Department on the bill? If there is, I should like to have it read.

Mr. TILLMAN. Mr. President, I ask that the unfinished business be laid before the Senate.

The VICE-PRESIDENT. Does the Senator from South Carolina object to the present consideration of the bill just read?

Mr. TILLMAN. There seems to be some trouble about its going through.

Mr. FLINT. It comes with a unanimous report from the committee.

Mr. ALDRICH. I do not think there is any trouble about the bill. It has been very carefully considered both by the committee and by the Department.

Mr. STONE. I object to the consideration of the bill.

The VICE-PRESIDENT. Objection is made.

ENTRY OF LANDS UNDER RECLAMATION ACT.

Mr. DUBOIS. I ask the Senator from South Carolina to allow a House bill which came over to be taken up.

The VICE-PRESIDENT. The Chair will state to the Senator from South Carolina that the morning business has not yet been closed. The Chair will lay the unfinished business before the Senate as soon as the morning business is concluded. The Chair lays before the Senate a bill from the House of Representatives:

H. R. 18536. An act providing for the subdivision of lands entered under the reclamation act, and for other purposes, was read twice by its title.

Mr. DUBOIS. I move that section 3 of the bill be stricken out and that the following be inserted. I will say to the Senate—

The VICE-PRESIDENT. The Chair will state that the bill is not before the Senate. Does the Senator from Idaho wish the present consideration of the bill?

Mr. DUBOIS. I ask for the present consideration of the bill.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

Mr. KEAN. Has the bill been reported by a committee of the Senate?

The VICE-PRESIDENT. It has not been.

Mr. DUBOIS. I will say to the Senator from New Jersey that the Senate has passed a bill on the same subject as the third section, and the House committee has unanimously reported in favor of the same bill.

Mr. KEAN. Then a bill on the same subject has been reported by the Senate committee?

Mr. DUBOIS. Yes. I will ask the Senate to substitute the bill which has passed the Senate for section 3, and then it will go into conference.

Mr. TELLER. This is a pretty important bill, and it seems to me it is hardly wise to put the bill into conference without some examination on the part of the Senate.

Mr. DUBOIS. I will say to the Senator from Colorado that the Senate committee has had a similar bill under consideration and has passed one bill covering entirely section 3, which same bill has been reported unanimously by the House committee. However, I have no objection to its going to the committee except that it will delay it.

Mr. TELLER. Mr. President, what we are just now in danger of in the West is too much legislation on this very question. We are threatened with very dangerous legislation, and if the Department or some portion of the Department, which have the Reclamation Service in charge, have their way there is not an intelligent man in the West who in two years will not regret that the Government ever touched this question. I do not know whether this bill is objectionable or not, but I think we are entitled to have an opportunity to examine these bills. Therefore I am going to insist that the bill shall go to the com-

mittee for action, and that we shall be given an opportunity to be heard if we have any objection to it.

Mr. KEAN. Let us have the regular order, Mr. President.

The VICE-PRESIDENT. Does the Senator from Idaho suggest that the bill be referred to the Committee on Irrigation?

Mr. DUBOIS. To the Committee on Irrigation.

The VICE-PRESIDENT. The bill will be so referred.

REMOVAL OF DERELICTS, ETC.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5683) to provide for the removal of derelicts and other floating dangers to navigation, which were in line 4, after the word "constructed," to insert a comma and the words "at a cost not to exceed \$250,000," and to strike out all of section 2.

Mr. FRYE. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

LANDS IN MINNESOTA.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2296) restoring to the public domain certain lands in the State of Minnesota, which was, on page 1, line 7, after the word "lots," to strike out "five and six" and insert "one, two, three, four, five, six, seven, eight, and nine."

Mr. NELSON. I move that the amendment be concurred in.

The motion was agreed to.

SANITARIUM IN MINNESOTA.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 4976) to grant certain land to the State of Minnesota to be used as a site for the construction of a sanitarium for the treatment of consumptives.

The amendments of the House were, in line 3, to strike out all after "Minnesota" down to and including "consumptives," in line 5.

In line 8, to strike out all after the word "That" down to and including "States," in line 11, and insert "said State shall pay therefor at the rate of \$1.25 per acre."

Mr. NELSON. I move that the amendments of the House be concurred in.

The motion was agreed to.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. SUTHERLAND submitted an amendment proposing to appropriate \$6,000 for alterations in and additions to the public building at Salt Lake City, Utah, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. FLINT submitted an amendment authorizing the Postmaster-General, on account of the earthquake calamity in California, to use the average daily weight of mails for a period of not less than thirty successive working days ascertained during the period from February 20 to April 17, 1906, in adjusting the compensation on all railroad routes in the fourth section, etc., intended to be proposed by him to the post-office appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On April 27:

S. 5520. An act to amend an act entitled "An act granting to the Choctaw, Oklahoma and Gulf Railroad Company the power to sell and convey to the Chicago, Rock Island and Pacific Railway Company all the railway property, rights, franchises, and privileges of the Choctaw, Oklahoma and Gulf Railroad Company, and for other purposes," approved March 3, 1905.

On May 7:

S. 956. An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska.

REGULATION OF RAILROAD RATES.

The VICE-PRESIDENT. Are there concurrent or other resolutions? If not, the morning business is closed, and the Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. WARNER. I send an amendment to the desk to be read.

The VICE-PRESIDENT. There is a pending amendment to the amendment.

Mr. WARNER. I will ask that the amendment be read.

The VICE-PRESIDENT. Without objection, the amendment proposed by the Senator from Missouri will be read by the Secretary.

The SECRETARY. After the last line of the substitute of the senior Senator from Texas [Mr. CULBERSON] for the amendment of the senior Senator from Ohio [Mr. FORAKER] insert:

It shall be the duty of carriers engaged in interstate commerce to give like accommodations to all persons paying the same compensation for interstate transportation of passengers.

The VICE-PRESIDENT. The amendment to the amendment will lie on the table.

Mr. HOPKINS. I desire to make a motion to reconsider the vote by which the amendment found on page 6497 of the Record was adopted. It reads as follows:

In line 5 of the proposed amendment, after the word "water," insert "at any place within the jurisdiction or within the governmental authority of the United States."

I will state to the Senate that this amendment was proposed by the senior Senator from Alabama [Mr. MORGAN] and was adopted. I desire to make a motion to reconsider it; and as I see he is not in his seat, I will let the motion be pending until he comes into the Chamber.

The VICE-PRESIDENT. The motion to reconsider will be entered. The pending question is on the amendment proposed by the Senator from Mississippi [Mr. McLAURIN] to the modified amendment of the Senator from West Virginia [Mr. ELKINS]. The Secretary will read the amendment to the proposed amendment.

The SECRETARY. In line 4 of the proposed substitute, after the word "commerce," insert the words "as a common carrier of articles and commodities of its own production, mining, or manufacture."

Mr. ALDRICH. I ask that the original amendment be read as it would read if amended.

The VICE-PRESIDENT. The Secretary will read as requested by the Senator from Rhode Island.

The SECRETARY. Add at the end of section 1 the following proposed substitute offered by the Senator from West Virginia [Mr. ELKINS], which if amended by the Senator from Mississippi [Mr. McLAURIN] would read as follows:

It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity, to engage in interstate commerce as a common carrier of articles and commodities of its own production, mining, or manufacture: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

Mr. McCUMBER. I think, Mr. President, everyone is agreed that we should absolutely divorce our railways as common carriers from engaging in any character of business in competition with any person, firm, or corporation. Being agreed upon that, then we are brought face to face with this proposition. Under the bill, or under the amendment, as it now stands, in my opinion, it would be clearly unconstitutional. Suppose that a company in the State of Maryland, under the laws of that State, engages, as it has a right to engage, in the mining and selling of products purely within that State. That being the case, is it possible for Congress to enact a law which would forfeit the right of that company to do an interstate-commerce business in property that it is not buying or selling within the State? Any prohibition such as is contained in the provision of the amendment of the Senator from West Virginia would, in effect, take this private property of the carrier without due process of law, in my opinion, and it would be absolutely unconstitutional.

What the Senator, I presume, really wants to secure, and what we all wish to secure, is an amendment that will prohibit railway companies as much as possible from engaging in interstate commerce in articles of their own production. That may be obtained, it seems to me, by a very few words, much less than are contained in the amendment offered by the Senator from Mississippi to the amendment. Suppose that the provision should simply read this way:

Any common carrier under the provisions of this act is prohibited from engaging in marketing or selling any coal, coke, or other commodity entering into interstate commerce.

That is a simple proposition. He would be prohibited from entering into that business only, if entering into it, he engaged in interstate commerce in connection with it. That would bring it under the interstate-commerce clause of the Constitution and the authority of Congress to deal with it. It is a simple propo-

sition and covers entirely what is desired by the Senator from West Virginia. The proposition is in a very few words:

Any common carrier under the provisions of this act is prohibited from engaging in marketing or selling any coal, coke, or other commodity entering into interstate commerce.

That would leave the company free to engage in that business in the State which allowed the company to so engage. It would prohibit the company from engaging in the sale of any commodity which would enter into interstate commerce. It would be comprehensive and, at the same time, simple, clear, and definite.

Mr. HOPKINS. Does the Senator offer that as an amendment to the substitute?

Mr. McCUMBER. I can not offer it as an amendment now, because I understand that one amendment to the amendment is pending, and I simply present it as a suggestion. I will ask the Chair whether an amendment would at this time be in order?

The VICE-PRESIDENT. The Chair is of opinion that it is not now in order.

Mr. McCUMBER. It was my opinion that it is not now in order.

Mr. ALDRICH. I suggest that the amendment of the Senator from North Dakota be read for the information of the Senate.

Mr. McCUMBER. I send it to the desk.

The VICE-PRESIDENT. The Secretary will read as requested.

The SECRETARY. As a substitute for the amendment just read, at the end of section 1, in lieu of the matter proposed to be inserted, add the following:

Any common carrier under the provisions of this act is prohibited from engaging in marketing or selling any coal, coke, or other commodity entering into interstate commerce.

The VICE-PRESIDENT. The Chair understands that the amendment of the Senator from North Dakota is in the nature of a substitute for the amendment of the Senator from West Virginia.

Mr. McCUMBER. Yes.

The VICE-PRESIDENT. The Chair would suggest, then, that after the amendment of the Senator from West Virginia has been perfected by its friends the proposed substitute of the Senator from North Dakota will be in order.

Mr. DRYDEN. Mr. President, I wish to ask the Senator from West Virginia whether there is any provision in the bill as to the time when his amendment, if adopted, will go into operation and become effective upon the railroads? I will state the point of my inquiry. The carrying of coal to the markets from the mines has to be done by these carrying companies. If it be true, as is commonly believed, that the carrying companies own property valued perhaps at hundreds of millions of dollars, and that the only way the public can get the coal is through these companies, there should be, in my judgment, a time set for the operation of this law to go into effect. If not, two things are sure to result: First, an enormous injustice to the carrying companies and all the holders of their securities, and, second, tremendous distress to the public, because if these companies are shut off without proper notice and without due time for the disposal of their property the public will be positively unable to get the coal which they must have for their use. Now, is a reasonable time limit set for the operation of the law to take effect? If not, should it not be done? I should like to ask the view of the Senator from West Virginia on that point.

Mr. ELKINS. In the original draft of the amendment under discussion, and which I drew—

Mr. TELLER. Mr. President—

The VICE-PRESIDENT. Does the Senator from New Jersey yield to the Senator from Colorado?

Mr. DRYDEN. Certainly.

Mr. TELLER. I think we are entitled to know what is going on in the Senate, and unless Senators speak louder than they have been speaking, with the noise there is, we might as well retire to the cloakroom.

Mr. DRYDEN. I have asked a question of the Senator from West Virginia.

Mr. TELLER. I have not heard a word the Senator from New Jersey has said, and I have listened intently.

Mr. DRYDEN. The point of my inquiry, I will say to the Senator from Colorado, is whether there is any provision in the bill to set a time when the bill shall go into operation if it becomes a law, and particularly with reference to the amendment proposed by the Senator from West Virginia. I say this question is so broad that it is not too strong a statement to make to say that it will affect almost every household in this country. This amendment which is now pending is one of the

most vital in the whole bill, and if this amendment as proposed be incorporated in the bill and become a law—and there is no time set for the bill going into operation, as I understand—then I say that the people of this entire country will be prevented from getting their supply of coal; every household, every great manufacturing concern, the railroads themselves which do not own their own coal mines, every industry and every individual to-day dependent for comfort and life upon the supply of coal, would be prohibited from getting a supply under the operation of this amendment. Therefore, if there is no such provision, I propose to offer a proposition to that end, and I should like to know what the real situation is.

Mr. TELLER. Mr. President, I will inquire whether or not the Senator from New Jersey [Mr. DRYDEN] has concluded?

Mr. DRYDEN. I have for the present.

Mr. TELLER. Mr. President, of course there is no provision in this bill as to when it shall take effect, and therefore, as in the case of other bills, it will take effect on its approval by the President. In my judgment it is rather unfortunate that this feature should be put into the bill. While there is an evil unquestionably in allowing railroad corporations to mine coal or to manufacture products of any kind, yet we might as well face the fact that that is something which we can not prevent, at least until the article so produced or manufactured shall enter into interstate commerce. The State of New Jersey, if it sees fit so to do, may charter a railroad company and authorize it, in addition to doing its railroad business, to do something else. If the State of New Jersey sees fit to authorize it so to do, such railroad company may mine coal or it may manufacture cotton goods or anything else. The power of a corporation is derived from the State and not from the General Government. A corporation is entirely outside of the control of the General Government as to what it shall do until it enters the domain of interstate commerce.

Mr. President, it is not unlawful for some corporations in the State of Pennsylvania to mine coal, because, as I understand, they are authorized so to do by their charters. I do not believe any railroad company in the State of Colorado could, within its charter, mine coal; but it is certainly within the power of the State of Colorado to authorize it to do so if the State thinks the interests of the public would be promoted by its so doing. So the mining of coal by a railroad corporation is not an offense against law in the State of Pennsylvania, though it is an offense in some States; and the company which should mine coal might subject itself to the danger of losing its charter. But I take it for granted that where railroad companies are mining coal in the eastern sections of the country they are doing so by some specific authority of the State. Under their charter they have a right to mine coal and to ship it on their cars, but when they reach the State line, then, Mr. President, that coal becomes the subject of our jurisdiction, and we can then have something to say about it.

Suppose a railroad company mines large quantities of coal and ships it out on terms exactly the same as it ships other people's coal, under precisely similar conditions, making no discrimination between that corporation and any other; there is not any reason for finding fault with that, and that is not the complaint. The complaint is that the railroad company, having the opportunity to furnish cars for its own coal and to carry its own coal for a rate of freight that it does not carry other coal, avails itself of that opportunity, and so becomes a hostile competitor, not a competitor in the proper sense of the term, but a favored competitor with others engaged in the same business—that is, in mining coal—who do not happen to own a railroad to carry it. In my judgment, when a company does that and carries its coal, and such coal becomes a subject of interstate commerce, when it is transported outside of the State, then we have control.

In my judgment, we do not have any control until that thing happens; and this corporation organized in Pennsylvania, holding its right to mine coal and selling its coal only within the boundaries of that State, that coal not being the subject of interstate commerce, but of domestic consumption, it is absolutely beyond our control. That is a question which is presented to us here, and as a matter of principle there is not anything more important than that in the whole bill; not even rate making is more important than that. I think, Mr. President, no railroad company ought to be so chartered. As a matter of policy, the States ought not to authorize that; but they have authorized it, and they may continue to authorize it.

I want to repeat that it is a subject we can not control, although it may be reprehensible and objectionable. We can not meet everything we may object to with a remedy.

Mr. FORAKER. Will the Senator allow me to interrupt him?

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Ohio?

Mr. TELLER. I will yield for a question, but I do not propose in the fifteen minutes I have got to yield to an argument.

Mr. FORAKER. I only want to state to the Senator that I agree with all that he has said as to the legal aspect of this proposition; but I wish to call his attention and ask for the benefit of his view as to what would happen if our legislation should be enacted as proposed and it should be held to be constitutional, and we would thereby prohibit railroads who are now engaged in mining and manufacturing coal from sending it out as interstate commerce and supplying the people with it.

Mr. TELLER. I would rather not consider a question that seems to me to be so exceedingly remote. I can not conceive that any court in this country entitled to be called a court would hold that we have that right. The Senator from New Jersey [Mr. DRYDEN] has touched upon that subject. I only want to deal with the question, How are you to reach this matter, if you reach it at all? I should myself very much prefer that this question should come to us in a separate bill, where it could be considered by itself, and not interfere with this general bill, which the public have been looking for and expecting us to pass in some shape or form for the last two years, or nearly that time.

Mr. President, whenever coal or anything else that the railroads may produce becomes the subject of interstate commerce, then I admit the United States may put its power in operation and may control it.

I only want to say a few words, for I know that fifteen minutes do not give an opportunity for any real discussion of this question; but I want to enter my protest here against that which I know has the sanction of a very high court. When the Constitution of the United States authorized us to regulate interstate commerce it did not authorize us to destroy commerce, and although there may be high authority to the effect that the power to regulate means the power to control, and I may be compelled to accept that in some cases, I am not compelled to accept it as binding upon me when I come to a positive act of my own. I may refrain, Mr. President, from doing some things that I should like to do as a member of this body. I may withhold my vote from a certain proposition because the court has said substantially that such a proposition would be a nullity; but the court can not compel me to act affirmatively when it comes to legislation. I may withhold my assent then. I can make my objection, although the court says the act may be constitutional, if, in my judgment, it is impolitic, and especially if, in my judgment, it would work injustice.

Mr. President, I suppose we shall have to deal with the subject as it is here. I want to deal with it, not upon the theory that the people who are mining coal are guilty of a crime by mining it, for if they are guilty of any offense against either law or morals, it is in that they take advantage of the condition they are in to unfairly compete with others who are engaged in the same business. Beyond that I do not believe we ought to go.

This amendment has been, in my judgment, rather hastily drawn, and I am not satisfied with it. I myself do not believe that in a time of haste, when we are endeavoring to get through with this bill, is a good time to introduce this question. Yet it is an evil, I admit, that we have got to wrestle with in the near and immediate future.

Mr. President, this bill has been before Congress a good while, and it has been pending here something like ten weeks, I think. I have not believed that it required any great haste on our part. It has been pretty thoroughly discussed upon one feature principally, and that is as to what should be the condition when the Interstate Commerce Commission has declared that a rate made by a railroad company was an improper one; what should be the right of the carrier and also the shipper, for that matter, when the condition arrives that the court has passed upon the rate made by the railroad company and declared it an improper one; what, then, shall be the condition when the carrier goes into court, and what court shall he go into, and what questions shall be considered there?

We have heard, Mr. President, about "broad review" and a "limited review." I think, as a general rule, that a man brought up in the profession to which I belong would hesitate somewhat to provide in a matter of this kind for a limited review. In the first place, I think he would be somewhat at sea when he began to try to determine as to what particular thing this review should go; and then I think he would be very much embarrassed for fear he might not give to the carrier such a review as he is entitled to under the Constitution of the United States. So, Mr. President, it has generally been understood here, I think—I have tried to make it so—that, so far as I am concerned, I am in favor of such a review as will enable the car-

rier, if he says his rights have been invaded by the Commission, to go into court to determine that question.

We are told that an agreement is to be made amongst the friends of this bill, of which I count myself one, as to the character of the review to be provided; but concerning that agreement I admit I have not been consulted.

We heard yesterday or the day before that an amendment was to be offered by the senior Senator from Iowa [Mr. ALLISON], but it did not come. On Saturday we heard of it, on Sunday we heard of it, and yesterday we heard of it. We have not seen it yet, but a newspaper man, who at least thinks he knows what it is, handed me a paper and said that it contained the gist of the proposed review provision.

The VICE-PRESIDENT. The Chair is obliged to inform the Senator from Colorado that his time has expired.

Mr. TELLER. Well, I will take occasion later, when some other amendment is pending, to finish my remarks. I will not undertake to violate the rule.

Mr. DICK. Mr. President, the inquiry of the Senator from New Jersey [Mr. DRYDEN] is both pertinent and important. Either the time should be extended very considerably or this matter should be dealt with in an entirely separate bill. In the first place, we recall that some years ago the iron masters of Pittsburg constructed a railroad, extending through a part of the State of Pennsylvania and a part of the State of Ohio, to reach the ports of Lake Erie for the purpose of carrying iron ore from the Lake ports to Pittsburg because of extortionate rates charged them by the railroads. If this amendment is adopted and that road is still in the possession of the men who constructed it, they must either go out of the business of manufacturing steel or the business of common carriers.

Again, we adopted in the early part of the voting an amendment putting pipe lines into the list of common carriers; and the men who own pipe lines, whether the companies are large or small, will be compelled, if this amendment is adopted, either to go out of the business of pumping and refining oil or out of the business of conveying it.

Within a few days the Committee on Territories favorably reported a bill chartering a railroad in the district of Alaska, its purpose being largely to mine coal and other minerals, and the bill grants certain coal-mining privileges in that district. The company means to mine that coal, to convey it to a seaport, and thence to the Pacific coast. It will have to change these arrangements, and perhaps abandon the enterprise altogether, if it is confined entirely to the business of a common carrier and prohibited from engaging in the business of mining.

Ample illustrations might be given, in addition to the illustration made by the Senator from New Jersey or the one made previously by the Senator from South Carolina [Mr. TILLMAN], when he referred to the lumber industries of the South. It extends still further. Great companies are mining iron ore in Michigan and in Wisconsin. They own vessels for the transportation of that ore from where it is mined to points where it is consumed in the manufacture of steel. They will have to go out of the business of mining or out of the business of common carriers.

So that, in all its ramifications, this question is so great, it affects so many interests, not only the interests of capital, but the interests of labor as well, that it seems to me the question itself is quite as important, and perhaps of even greater importance, than this matter of railroad-rate regulation, in that railroad-rate legislation has been a question that has been dealt with by Congress for more than twenty years. This very bill is but a conformation of old legislation to newer conditions, but this particular question is a new and a very important question. It is to be hoped the Congress will see that it is a wise thing to do to defer action upon so important a matter until the pending rate legislation is out of the way and it can be dealt with as a separate and distinct proposition in important legislation.

Mr. ELKINS. Mr. President, the purpose of introducing this amendment was to correct an abuse and evil growing up in the State of West Virginia and in other mining States, owing to the fact that railroads engage in competition with producers on their lines. My idea of this is, and it is my judgment, that railroads should be strictly held to doing the business for which they are incorporated—that is, the transportation of freight and passengers, and should be prohibited by law from engaging in any other business, and especially business in competition with the producers and shippers on their lines.

When I first drew this amendment I inserted the words "unless authorized by its charter to do so," which were objected to yesterday by the Senator from New Hampshire [Mr. GALLINGER]. The amendment reads:

It shall be unlawful for any common carrier subject to the provisions of this act, unless authorized by its charter to do so, to engage, directly

or indirectly, in the production, manufacture, buying, furnishing, or selling of coal or coke or any other commodity or commodities of commerce in competition with any shipper or producer on its line or lines, etc.

I put in the words objected to in order to meet the question raised partly by the Senator from Ohio [Mr. DICK] and the Senator from New Jersey [Mr. DRYDEN]. For instance, the Reading Railroad, the Lackawanna Railroad, and probably the Pennsylvania Railroad took the right, by special acts of their legislatures fifty years ago, perhaps sixty years ago, to mine, sell, and produce coal. That right has never been questioned and I do not want to disturb vested rights.

It is impossible, under the general incorporation acts of the various States authorizing the organization and incorporation of railroads, for them now to get the power to mine and sell coal. The power of the railroads to mine and sell coal and coke and engage in any other business was derived from special acts of the legislatures. With the vested rights growing out of these special acts I did not want to interfere at all, and, therefore, I put in the words "unless authorized by their charters to do so."

The Senator from New Hampshire [Mr. GALLINGER] says that would work injustice, because all the railroad companies would have to do would be to organize not only to transport freight and passengers, but to engage in the mining business.

The VICE-PRESIDENT. The Chair will call the attention of the Senator from West Virginia to the fact that, upon consulting the RECORD of yesterday's proceedings, he finds the Senator from West Virginia took the floor upon the amendment proposed by the Senator from Mississippi [Mr. McLAURIN].

Mr. ELKINS. Yes, sir.

The VICE-PRESIDENT. Under the Chair's interpretation of the unanimous consent agreement, the Senator from West Virginia is not in order to speak to that amendment.

Mr. ELKINS. I am speaking to the amendment of the Senator from North Dakota.

The VICE-PRESIDENT. That amendment is not pending.

Mr. ELKINS. Well, I must speak to some amendment. [Laughter.] I can not speak to my own amendment. Other Senators took all of my time on that.

The VICE-PRESIDENT. The Chair regrets that he is obliged—

Mr. ELKINS. Can I speak to the substitute? I did not exhaust my fifteen minutes on the substitute offered by the Senator from Mississippi.

The VICE-PRESIDENT. But the Senator from West Virginia has exhausted the rule. The Chair, of course, can not enforce the rule. It must be left to Senators to observe it or not, according to their good judgment.

Mr. ELKINS. Senators took all my time yesterday asking questions, and I want to get a chance to explain my own amendment. Can the Senator from South Carolina [Mr. TILLMAN], in his prolific mind, offer something here that I can speak to? [Laughter.]

Mr. TILLMAN. With the permission of the Chair, I will state to the Senator from West Virginia that the Senator from South Carolina exhausted his time on this amendment yesterday afternoon, but after this amendment is disposed of there will be opportunity for him to speak on others. I have something I am trying to get up here that may obviate some of this difficulty.

Mr. KNOX. Mr. President, I listened yesterday afternoon to as wise a bit of advice from the lips of the Senator from South Carolina [Mr. TILLMAN] as I have heard yet uttered in this Chamber. I read it to the Senate from the RECORD. Speaking of the amendment of the Senator from West Virginia, the Senator from South Carolina said:

So, Senators, you will not quickly dispose of it in any wise and judicious way. By careful consideration we may be able to discover a method by which we can accomplish what we seek to do, but unless we are very cautious we will make a mistake, and we had better go not quite far enough than to go too far.

The first task of the morning I set for myself was to read the entire statement of the Senator from South Carolina which preceded these concluding words of advice. What he said is still fresh in the mind of the Senate, and it is not my purpose to repeat it. I am willing to confess my entire inability, by further illustration along the lines of his observations, to illuminate the question to which he was addressing himself; but I wish to give to the Senate the benefit of the reflections that I have made at the invitation of the Senator from South Carolina, stated in as succinct a form as possible, and stated practically in the way of naked legal propositions.

In the first place, Mr. President, the question we are considering is how we may lay the hand of injunction upon corporations conducting a carrying trade between the States to prevent them from doing either that which the States have, by the express act

of their legislatures, authorized them to do or, by a long period of acquiescence, permitted them to do.

The question of the power of Congress to prohibit commerce between the States has been passed on but once by the Supreme Court of the United States. The thing which Congress prohibited in that case was the transportation from State to State by express or railroad or by the hand of man of a lottery ticket, a thing connected with a gambling scheme, a thing which had been condemned by Congress time and time again. It had been excluded from the mails; it had been excluded from foreign commerce; and, Mr. President, the question of the power of Congress to prohibit that noxious thing was debated three times in the Supreme Court of the United States by the court's own invitation, and then only sustained by a vote of 5 to 4. I challenge any Senator to put his hand upon a decision of the Supreme Court of the United States to the effect that Congress has the power to go within the borders of any State and lay its hand upon and stifle or crush the policy of that State as declared in its own legislation with respect to the development of its own resources as proposed by this amendment.

Take for illustration the State of North Carolina, rich in timber, possibly not so wealthy in capital as some of her neighbors. It is her laudable ambition that her timber shall be brought to the markets of the world; that her borders shall be filled with the industrious men who are to be engaged in that enterprise. She invites capital to come within her borders for investment. She gives by charter the privilege to a lumber company to accumulate a large area of timber land, the extent of which she may circumscribe. She permits the people who invest their money upon her hills to build highways into the forest in order that the lumber may be carried out and put into the channels of interstate and foreign commerce.

Does any Senator mean to say that it rests in the power of Congress, under the Constitution, to reverse that policy? If so, I should like to see the authority upon which it rests. Congress may, I think, without question provide that a carrier which is lawfully engaged within the borders of a State which created it in developing the resources of that State and which seeks unlawfully to gain an advantage in interstate commerce over its competitors in that particular product shall be excluded from participating in interstate commerce with respect to that product.

Congress can prevent a carrier from stifling competition by refusing to give cars, facilities in the way of side tracks, and other facilities. Congress can, with absolute certainty, in my judgment, prohibit a carrier from entering into interstate commerce in respect to particular traffic if it is trying to crush out its rivals. But, Mr. President, to say that Congress can cancel the policy of any State in respect to the development of its own resources by prohibiting the agencies of its creation from commercial intercourse upon equal terms with citizens of other States is to say that which I think is impossible; and I entirely agree with the legal conclusions that have been so clearly announced upon this subject by the Senator from Colorado [Mr. TELLER].

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Mississippi [Mr. McLAURIN]. [Putting the question.] In the opinion of the Chair, the "noes" have it. The noes have it, and the amendment is rejected.

The question recurs upon agreeing to the amendment of the Senator from West Virginia [Mr. ELKINS].

Mr. McCUMBER. I desire to offer a substitute.

The VICE-PRESIDENT. The Senator from North Dakota proposes a substitute, which will be stated by the Secretary.

The SECRETARY. As a substitute for the amendment offered by the Senator from West Virginia, it is proposed to insert the following:

Any common carrier under the provisions of this act is prohibited from engaging in marketing or selling any coal, coke, or other commodity entering into interstate commerce.

Mr. ELKINS obtained the floor.

Mr. McLAURIN. Mr. President—

The VICE-PRESIDENT. The Senator from Mississippi.

Mr. McLAURIN. I was out of the Chamber a few moments ago, and I heard that an amendment had been voted upon offered by the Senator from Mississippi. I did not know that it was my amendment which was under discussion. I was told yesterday that it was not in order at that time to offer the amendment, and that the amendment was then only read to see how it would sound if it should be adopted. I do not know how the amendment got before the Senate or how it came to be voted upon.

The VICE-PRESIDENT. The Chair understood the amend-

ment was offered, and soon after the bill was laid before the Senate the Chair announced that the question was on agreeing to the amendment offered by the Senator from Mississippi.

Mr. McLAURIN. Yesterday I stated that I offered it, but I was told that under the rules of the Senate it was out of order at that time and could not be offered until the substitute had been acted upon. For that reason I was not in a hurry to offer it again; also for that reason I was not in the Chamber to offer the amendment when the opportune time should come.

Mr. ELKINS. I should like to ask the Senator a question. As I understand, this was a verbal amendment offered by the Senator from Mississippi yesterday, and the Senator also offered a substitute. It was the understanding in the Senate when we adjourned that he would perfect the substitute and offer it this morning.

Mr. McLAURIN. I did not offer a substitute. The amendment was read at the time I presented it to the Senate, but I was told at that time that it was out of order to offer it because the substitute for the amendment offered by the Senator from West Virginia had not been acted upon.

Mr. ELKINS. Will the Senator allow me?

Mr. McLAURIN. I now have a substitute which I have prepared.

The VICE-PRESIDENT. The Chair was governed in the matter by the record of the Secretary. The proposed amendment of the Senator from Mississippi was stated by the Secretary, and at the request of Senators the amendment proposed by the Senator from West Virginia was read with the proposed amendment of the Senator from Mississippi incorporated in it.

Mr. McLAURIN. I am not complaining of the Chair.

The VICE-PRESIDENT. The Chair does not understand that the Senator is, but the Chair was simply advising the Senator as to the manner in which the proposed amendment came before the Senate.

Mr. DANIEL. If the Senator from Mississippi will permit me, I ask unanimous consent that the vote by which the amendment was rejected be reconsidered.

The VICE-PRESIDENT. Without objection, it will be reconsidered.

Mr. McLAURIN. I now offer a substitute for the pending amendment.

The VICE-PRESIDENT. Withdrawing the proposed amendment heretofore submitted?

Mr. McLAURIN. Yes, sir.

The VICE-PRESIDENT. The Secretary will read the proposed substitute.

The Secretary read as follows:

It shall be unlawful for any corporation that mines or manufactures or produces any article or commodity of commerce for sale to engage in the business of interstate commerce as a carrier of any of its own products, mining, or manufacture; and it shall be unlawful for such corporation to charge, demand, collect, or receive any money or other thing for the carriage, as a carrier of interstate commerce, of any of the like kind of articles or commodities produced, mined, or manufactured by any other person, company, or corporation; and for a violation of this provision the person paying such charge or demand may recover in any State or Federal court having jurisdiction of the subject-matter an amount triple the amount so collected or paid, together with all costs of collection, including attorney's fees and costs of travel to and from and attendance upon court. If any such corporation shall engage in the business of a carrier of such articles or commodities as intrastate carrier it shall be unlawful for such corporation to engage in interstate commerce as a carrier of any kind of commerce.

Mr. ELKINS. I understand the substitute was read for information; it is not offered?

The VICE-PRESIDENT. The Chair understood the Senator from Mississippi to withdraw the amendment proposed yesterday and to offer the amendment just proposed in lieu of it.

Mr. McLAURIN. That is correct, Mr. President.

Mr. ELKINS. I wish to speak to the amendment of the Senator from North Dakota.

Mr. McCUMBER. I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from North Dakota will state his parliamentary inquiry.

Mr. McCUMBER. As the record now stands, the substitute offered by the Senator from Mississippi yesterday was voted down. That disposed of that amendment. Then I introduced a substitute, upon which the Senator from West Virginia [Mr. ELKINS] started to speak. It was in order at that time.

That being the case, I ask the Chair if it is possible that this other substitute, the amendment which is now offered by the Senator from Mississippi, can be considered until the other amendment is disposed of? Which has precedence?

The VICE-PRESIDENT. The Chair understands the rule to be that an amendment to the part to be stricken out is first in order. In other words, that the friends of a pending measure have a right to perfect it by way of amendment, and after it is

made as perfect as they desire to make it, then the amendment in the nature of a substitute is put to the Senate.

Mr. McCUMBER. I am a friend of the measure, and the object of the substitute which I offered was to perfect it. I can not see wherein there should be a distinction between the two.

The VICE-PRESIDENT. The Chair asked the Senator some time ago if his proposition was in the nature of a substitute, and the Chair understood from the Senator that that was so, taking the place of the amendment of the Senator from West Virginia.

Mr. McCUMBER. It was then laid aside until the other matter was disposed of.

The VICE-PRESIDENT. That is correct.

Mr. McCUMBER. Then I offered it as a substitute.

The VICE-PRESIDENT. That is correct. But the Chair invites the attention of the Senator from North Dakota to the fact that the amendment of the Senator from Mississippi was first proposed and acted upon, and by unanimous consent the vote by which it was rejected was reconsidered. The Senator from Mississippi then withdrew his original amendment, and offered the one which has just been read by the Secretary.

Mr. McCUMBER. I will state to the Chair that I did not know that a motion to reconsider had been made. I did not hear it.

The VICE-PRESIDENT. Yes. So the Chair is of opinion that the proposed amendment of the Senator from Mississippi would take precedence.

Mr. ELKINS. Mr. President, in urging my amendment to prohibit interstate carriers from engaging in any other business than transporting freight and passengers, or, rather, not to engage in any business in competition with shippers on their lines, I do not want to interfere with any vested rights which may exist by reason of special acts of State legislatures authorizing railroad companies to engage in mining and selling coal. I therefore left in the amendment as I drew it the words "unless authorized by their charters," feeling that no other charters would be granted by special acts of legislatures to railroad companies and permit them to engage in the business of mining and selling coal and producing lumber.

I invite the attention of the Senate to the recent decision of the Supreme Court in the Chesapeake and Ohio case, a case that came up from West Virginia. Without taking the time of the Senate to read the decision, I will say that the court in effect decides that where a railroad company does not have, by an act of the legislature, expressly conferred upon it the power to engage in mining and selling coal under existing law the railroad company could not mine and sell coal. That was the decision of the court in the Chesapeake and Ohio case.

Mr. BACON. Will the Senator repeat that statement?

Mr. ELKINS. As I understand the decision of the Supreme Court in the Chesapeake and Ohio Railroad case, it being a railroad company chartered and organized under the laws of Virginia without the power definitely expressed in the charter to mine and sell coal, it did not have the right, under the laws of Congress to regulate commerce, to mine and sell coal, and the court decided that it could not do so.

Mr. President, we have here a decision of the Supreme Court clearly meeting the point raised, as I thought, by the Senator from New Jersey. The court did not hold that where a legislature had especially authorized a railroad company to mine and sell coal it could not engage in the business of mining and selling coal, and therefore, as I stated before, I put in the words "unless authorized by their charters." I am not able to say whether an act of Congress could go so far as to annul and destroy a special act of the legislature authorizing a railroad company to sell coal and under which it had owned coal lands and mined and sold coal for fifty years and had mortgaged said coal lands to secure bonds.

We will have no trouble on this score in the future, because under the general incorporation acts of the States railroads can not take power to engage in any other business than transporting freight and passengers, although they may take all sorts of power. Under the laws of West Virginia a railroad company is prohibited from engaging in the business of mining and selling coal.

This act of the legislature was passed in 1895 and prevents railroad companies from buying or selling coal or coke.

The object of this amendment is to incorporate in the laws of Congress just what the law of the State of West Virginia is on this subject. Now, I think the question raised by some Senators that the right to mine and sell coal by intrastate roads can not be interfered with disappears when it is disclosed that any common carrier subject to the provisions of the interstate-commerce laws—that means any interstate carrier—shall be prohibited from engaging in the mining, manufacture, and production of coal in competition with shippers, because under the decisions of

the courts every local railroad in the States are interstate carriers. The mining and selling coal by railroad companies in competition with shippers on their lines is a great evil and abuse, and unless stopped by law the railroads of this country can acquire all the coal lands in a particular locality or State, and can crush out under this power to mine and sell coal all independent operators and individual miners, because they can favor their own interests and deny shippers many of the advantages they enjoy.

The answer to this may be that they can not discriminate; but a railroad company owning the coal and the means of transportation can discriminate in a way so as not to violate the law, and in the end the independent operators must yield, surrender, and go out of business.

What I am contending for in this amendment is that the independent operator, the individual mine owner, shall be protected in his business against the rapacity and injustice of railroads owning coal lands. No independent operator, no small mine owner, can afford to engage in competition with a railroad company that owns twenty or thirty or forty thousand acres of coal doing business in the same locality. I say it is perfectly competent for Congress to pass such legislation. The law of West Virginia on this subject has been sustained. Congress by proper laws should forbid railroad companies from engaging in any business in competition with shippers on their lines.

It seems to me that the substitute offered by the Senator from North Dakota [Mr. McCUMBER] is clear, explicit, and to the point. It says it shall be unlawful, using the very words I have in the pending amendment, for a common carrier under the provisions of this act to do what? To engage in the business of mining, selling, and producing coal. That is simple, and I do not see how there can be any objection to this wording. It seems to me it is clear and to the point.

However, the Senator from Mississippi [Mr. McLAURIN] will, in due time, I believe, offer a substitute, when we will have an opportunity to further discuss the question. My aim and purpose is simply to correct evils and abuses that exist in the mining States and oppress the people. I did not, perhaps, understand the Senator from Pennsylvania [Mr. KNOX] in regard to the development of the lumber interests of the State of North Carolina. If he advocated the right of an interstate railroad to engage in the business of manufacturing lumber as against local operators of lumber mills in that country, I think he is mistaken. That would be an abuse, and, inasmuch as it would give an advantage to the railroad company over the independent operator, it should be prohibited.

Railroads in recent years have been chartered and organized primarily for one purpose—namely, to transport freight and passengers. Nothing else. Fifty years ago I admit that the Reading, the Lehigh Valley, the Pennsylvania, and other roads, under special acts of the legislature, had the power conferred upon them of owning coal lands and mining and selling coal, which they have exercised for all these years. I do not want to interfere with these powers, but for the future I want it to be clearly understood that all interstate roads shall refrain from engaging in such business.

I do not know of any intrastate roads. There may exist in a State a road 50 or 100 or 200 miles long, but all these roads do interstate business, and doing that, it has been decided they become interstate carriers and interstate roads. I believe in confining strictly and positively railroads to doing two things—the transportation of freight and the transportation of passengers, and engaging in no other business of any kind whatsoever, directly or indirectly.

Mr. FLINT. Mr. President—

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from California?

Mr. ELKINS. Certainly.

Mr. FLINT. I should like to ask the Senator from West Virginia whether, in his opinion, private car lines should not be prohibited from engaging in other business?

Mr. ELKINS. Private car lines?

Mr. FLINT. Yes, sir. They are now engaged in buying and selling fruit, and also in operating private car lines.

Mr. ELKINS. Yes. I believe every common carrier should be prohibited from doing any other business than that for which it was incorporated and organized.

Now, as to the question of the Senator from California, these private car lines are, I believe, organized to provide facilities for transporting fruit. But whether they are common carriers under the statute and from the standpoint I am discussing this question I do not know, and I do not wish that question to be involved in the discussion of my amendment.

Mr. FLINT. Mr. President—

Mr. ELKINS. Allow me to say to the Senator from California that I lost my time yesterday by yielding and being graceful, and I do not want to be so unfortunate to-day.

Mr. FLINT. I want to ask the Senator from West Virginia one other question. In his opinion, should not the question as to private car lines engaged in business other than operating private car lines, and railroads engaged in business other than transporting freight and passengers, be left to a separate bill and this whole matter included in a bill other than the present bill? This is a very wide subject, and—

Mr. ELKINS. That is not a question. That is your opinion.

Mr. President, I know it is sought to sidetrack this amendment that corrects a great abuse and injustice. I know we are dealing with rates and trying to prohibit excessive rates, but there are abuses and evils produced by railroads far greater than excessive rates. The great evils and abuse are the kind I have mentioned. Rebates and discriminations are prohibited now by stringent laws. Now, another abuse by railroads is they refuse at times to give switches to shippers of interstate commerce. They will not give physical connection. If we are going to regulate railroads, if we are going to correct abuses, let us correct the real abuses that oppress the people and drive them out of business. What I complain of in this bill is that while it is a good bill as far as it goes, it does not go far enough. It does not correct the very abuse I am trying to bring to the attention of the Senate. It does not provide that where an interstate shipper is prepared to operate he shall have the right of switch connection. It does not provide that connecting lines shall have connections and fair, just, and reasonable prorating arrangements. Those are abuses of which the people of West Virginia complain, and they are evils which I should like to see corrected in this bill.

Mr. President, I think it is plain, in the words of the substitute offered by the Senator from North Dakota, that if common carriers are engaged in mining and selling coal or coke or other commodities along their lines in competition with shippers, it should be prohibited. That is a plain, simple proposition. It is an evil and an abuse, and if it is not checked it will enable the railroads of the country to absorb the mining business along their lines to any extent.

Mr. FULTON. Mr. President—

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Oregon?

Mr. ELKINS. Some railroads now own forty or fifty or sixty thousand acres of coal lands. I am glad to see that lately the Baltimore and Ohio Railroad Company has determined—wisely, I think—to give up the business of mining and selling coal and engage only in the transportation of freight and passengers.

Mr. FULTON. Mr. President—

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Oregon?

Mr. ELKINS. Just for a question.

Mr. FULTON. I observe that the Senator's proposition excludes from the operation of this amendment all railroads which by their charters are authorized to engage in mining coal.

Mr. ELKINS. Yes.

Mr. FULTON. I would ask the Senator what he means by their "charters?" Let him understand what I have in my mind. I call his attention to the fact that most of the railroads are organized under State laws, by which they can simply file articles of incorporation, setting forth the purpose for which they are organized and the business in which they propose to engage; and practically all of them propose to engage in business other than that simply of carriers. Does the Senator intend by his amendment to exclude from the operation of this law all railroads so organized and chartered?

Mr. ELKINS. I think under the general incorporation acts of the various State legislatures the power is only given to do the business of transporting freight and passengers, and no power is given under the general act to incorporate a railroad to buy and sell coal and engage in manufacturing.

Mr. FULTON. I call the Senator's attention to the fact that under many State laws a corporation may set out in its incorporation papers the purpose for which it is organized and the business in which it proposes to engage, and they include coal mining and various other pursuits in addition to mere transportation, in many instances.

Mr. ELKINS. I know that. I am perfectly familiar with that.

Mr. FULTON. The reason I state that to the Senator is this: His amendment will practically eliminate from the operation of the law he is seeking to have enacted every corporation whose articles of incorporation provide for engaging in business other than that of transportation.

Mr. ELKINS. No; I do not believe that—

Mr. FULTON. Therefore I suggest to the Senator the advisability of accepting the suggestion that this whole matter shall be treated in a separate bill.

Mr. ELKINS. I will answer your question. Under railroad charters taken out under the general incorporation acts of the States where extraordinary powers are attempted to be taken, I do not think the courts would hold that they can engage in anything but the transportation of freight and passengers.

In using the language or words "unless authorized by their charters" I meant only to protect the railroads chartered and organized fifty years ago under especial acts of the legislatures, and which have engaged in the business of mining and selling coal, and have bonds out on the coal property and improvements involving hundreds of millions of dollars. Perhaps it would not be right to disturb these vested rights. As to any future railroads I do not think that the Senator's question would apply at all.

The VICE-PRESIDENT. The Chair must inform the Senator from West Virginia that his time has expired.

Mr. BACON. Mr. President, I am very much inclined to the opinion, as has been expressed by several Senators, that this is a matter we should not attempt to deal with in the pending bill. It is a bill to regulate railroads in the matter of transportation rates and fares for passenger transportation. It is an impossibility to make it a cure-all for all the evils which may exist in the operation of railroads. This is an extremely difficult question, and one in which almost certainly there is an evil which should be remedied by legislation, but it is one which affects so many interests that it is extremely important that whatever is done should be done with the utmost care.

I have in my hand the opinion of the court in the Chesapeake and Ohio case. I have not had the opportunity to give it the very careful examination which one ought to give to attempt to discuss it or to predicate an argument upon its rulings. I had only seen heretofore the newspaper accounts, and I have had an opportunity to look at this decision only this morning, since the Senate has been in session. As I understand, though, in the hasty examination which I have been able to give it, the particular point ruled by the court was this: It was charged that the Chesapeake and Ohio Railroad Company sold and agreed to transport and deliver to the New York and New Haven Railroad Company coal at a rate which represented in the aggregate less than the cost of the coal and the rate of transportation as published by them as their regular rate, and that therefore it amounted to a system of rebates.

Mr. President, it will be seen how extremely difficult it will be to frame a law which shall correct that evil, because it relates not simply to a case where a railroad company buys property and where the market price in that way can be distinctly stated by being added to the transportation rate, and the proper aggregate can thus be ascertained, but it relates also to the case of a railroad that is producing property which it sells, and there comes in the difficulty of fixing what is the value of that property in such manner that it can be so added to the published rate as to indicate whether the railroad company is using it as a device for rebates.

That is an extremely difficult question, and it is one which not only will affect illegitimate enterprises, if I may so denominate them, but it is one which will affect legitimate enterprises, and therefore it should be regulated with great care, so as not in any manner to do unwanted injury to those legitimate enterprises.

I will give an illustration. Of course, in these matters the fact that it will affect industries in our particular localities naturally occurs to Senators. The Senator from Pennsylvania instanced the case of the lumber trade in North Carolina, and that is true also in the State of Georgia. The southern half of the State of Georgia is a timber-producing section. Very many railroads have been built in that section for no purpose except to develop the timber industry. Men owning large tracts of timber land remote from railroads have built railroads into those tracts of land for the purpose of being able to market the timber. After they have built the railroads, while they are engaged primarily and principally in the transportation of timber which they themselves cut, they also take some business from the public in the way of the carrying of passengers and freight, and however minor it may be compared with the main business of carrying the timber, it constitutes them as common carriers.

While it is true that those roads are located within the State entirely, beginning in the State and ending in the State, still when a railroad takes a shipment from a point within the State to a point out of the State, a part of the transportation to be effected through other carriers, it constitutes itself a

corporation engaged in interstate commerce, and becomes subject to the provisions of this bill.

To say, as is proposed in the amendment offered by the Senator from North Dakota—

Mr. FORAKER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. BACON. If the Senator will let me finish the sentence, to say, as is proposed by the amendment offered by the Senator from North Dakota, that no carrier engaged in interstate commerce, which these common carriers become, as I have just stated, shall be engaged in marketing or selling any coal, coke, or other commodity entering into interstate commerce, is to lay the hand of prohibition, so far as Congress has the power to do it, upon all of that industry. Now I yield with pleasure to the Senator from Ohio.

Mr. FORAKER. I only wanted to inquire of the Senator whether or not, under the laws of the State of Georgia, railroads are incorporated with authority to engage in any other business than that of common carriers?

Mr. BACON. Ordinarily they are not, but there are instances, I think, in which they are. They are not incorporated by the legislature. We have a general railroad law which is sufficiently expansive, if I recall its provisions correctly, to permit a railroad company to engage in industries which immediately affect the purpose and business of the railroad.

Mr. FORAKER. I call the Senator's attention to the fact that when the Chesapeake and Ohio Railroad was incorporated, as stated by the Supreme Court decision to which the Senator has referred, there was no law of the State of Virginia prohibiting it from engaging in contracts of this kind. After that the State passed a law in 1895 prohibiting it, before this contract was entered into, and that cut a very important figure in the decision of the court.

Mr. BACON. But, if the Senator from Ohio will pardon me, if I have not incorrectly understood the decision, the main point in the case, as I gather it, is that the Chesapeake and Ohio Railroad Company bought coal and agreed to deliver it to the New York and New Haven Railroad Company at a price which did not represent the cost of the coal and the transportation of the coal at the published rates of transportation, and that therefore the conclusion was irresistible, as stated by the court, that they had undertaken this transaction with a view to the transportation of the coal at less rates than they were charging to the general public, and at less rates than the published rates for transportation, and therefore it was a violation of the interstate-commerce law. It would have been a violation of interstate-commerce law, even conceding that the company did have the authority under its charter to engage in the business of buying and selling coal. That is a great question with which we have to deal.

It is not the fact, Mr. President, that the corporations are engaged simply in the business of buying and selling coal, but it is the fact that they are in a position to violate the interstate-commerce law in a way that makes it extremely difficult to determine that such violation has been accomplished, because in order to ascertain the fact it must be mathematically shown that the aggregate as represented in the original cost of the article and the cost of transportation does not equal the original cost of the article and the published rate of transportation added thereto.

Mr. President, I repeat, I simply give that by way of illustration. I shall myself, unless there is some modification, or unless something is said to change my mind upon the subject, vote against this amendment and against the general proposition as contained in all of these amendments, not wishing it to be understood that in so doing I am opposed to legislation on this subject. I think there ought to be legislation on the subject, because it is a tremendous evil for these transportation companies to be permitted to enter into competition directly with others engaged in similar business to that in which they are engaged outside of their distinct occupation as common carriers. I think it is a great evil, but I am unable in any proposition which has yet been suggested to see that the legislation proposed by those propositions can be safely entered upon without endangering some legitimate enterprises, while endeavoring to reach others we deem to be illegitimate.

Therefore, I hope that the matter may be so deferred that we may legislate upon it in another connection and at a time when we will be able to have the subject carefully examined into by a committee. While we have here the benefit of the investigation made by the Interstate Commerce Committee on the subject of the bill, I understand this particular question has not had a thorough examination at the hands of the committee. I will ask the Senator from South Carolina whether I am correct in that statement?

Mr. TILLMAN. If the Senator will recall what is known as the "Tillman-Gillespie resolution," passed by the Senate some six or eight weeks ago, the Interstate Commerce Commission has been directed by a joint resolution of both Houses to investigate this question and it is now at work on it. It has not yet made any report.

Mr. BACON. That carries out the view which I had entertained that the matter has not been sufficiently investigated to enable Congress properly to legislate upon the subject. I think it is sufficiently great to be the subject of a separate and independent piece of legislation, and that it is too great to attempt to engraft it upon the pending bill with the imperfect investigation which has already been made.

I had more the purpose of giving my reasons why I may vote against it than the purpose of any general discussion. In the absence of modification by amendment I shall vote against it, I repeat, not because I desire that railroads shall have the opportunity to continue this kind of business, but because I think the legislation which is had upon it should be carefully considered and perfected, so that while illegitimate and improper practices may be condemned and prevented legitimate enterprises may not be interfered with and injured.

Mr. DOLLIVER. Mr. President, the Senator from West Virginia has introduced a very important practical question, probably a more far-reaching and difficult question than any with which the pending bill undertakes to deal. The pending bill seeks to confine our labors to the abuses of the rate-making power. It has been said from time to time that there are enormous holes in the bill, but an examination shows that the holes through which cars and other vehicles are supposed to move easily are not in the bill but outside of it, and arise from the fact that the bill does not undertake to do everything.

No more difficult railway proposition exists than this connection of the carriers with the productive enterprises of the country. That relation is in all forms. Some railroads own coal mines and undertake to engage in the distribution of coal, and curiously enough some coal mines own railroads, because it has become a favorite method in these days in organizing a coal corporation to anticipate in a way the probable attitude of Congress, and the public dreads a mixture of the two functions. So it is not uncommon to find great coal corporations having as a part of their charter rights the right to build and operate railroads.

Now, the question is so difficult, it involves so many questions of constitutional construction, that if I can get the attention of the Senator from West Virginia I want to make a suggestion. I think these amendments ought to be disagreed to, but it ought to be done with a distinct understanding that Congress will immediately undertake to deal with the problems involved in the questions the honorable Senator from West Virginia has suggested. We have already investigations ordered by Congress that will be fruitful, I think, in information in respect to these questions, and I am strongly of the opinion that it would be an act of folly to undertake to deal offhand with such problems as the Senator from West Virginia has so ably stated in the Senate.

I suggest, therefore, that these amendments be disagreed to, and that the Senator introduce as soon as may be a bill, because no one is more familiar than he is with the practical aspects of the question, and have it referred to the Committee on Interstate Commerce; and I feel certain that before the end of the session a well-matured measure, squared to the practical questions involved and squared as far as he may be able to do so to the legal questions involved, can be presented to the Senate and passed. I believe that treatment of the question would be infinitely better than an offhand undertaking to deal with it here.

Mr. ELKINS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. DOLLIVER. Certainly.

Mr. ELKINS. Do I understand the Senator to make a motion to refer the amendment I offered as well as the substitute offered by the Senator from Mississippi?

Mr. DOLLIVER. I have made no motion, because I am advised that such a proceeding is at least questionable, if not irregular. I have suggested, however, that the Senator yield a mild acquiescence in the action which I propose, to dispose of these amendments with a common understanding that the nature of these problems is appreciated by the Senate, and that the Senate can deal with them and kindred problems in a separate measure.

Mr. OVERMAN. Mr. President, appreciating the difficulty surrounding the Senate in regard to this matter, which is practically a new matter before the Senate, I would move, if in order, that all these amendments be referred to the Com-

mittee on Interstate Commerce, with instructions to report a bill to the Senate at as early a moment as practicable.

Mr. ELKINS. What amendment? This amendment?

Mr. OVERMAN. Your amendment and the amendments incident to your amendment.

Mr. ELKINS. Yes; the substitute.

The VICE-PRESIDENT. The Chair will leave the question to the Senate to decide for itself whether or not the motion is in order. The Senator from North Carolina moves that the amendment of the Senator from West Virginia [Mr. ELKINS] and all amendments incident thereto be referred to the Committee on Interstate Commerce with instructions to report a bill to the Senate at as early a date as practicable.

Mr. KEAN. Mr. President, under the unanimous-consent agreement is that motion in order?

The VICE-PRESIDENT. The Chair leaves the question as to whether the motion is in order to the Senate to determine for itself.

Mr. KEAN. Let the unanimous-consent agreement be read, Mr. President.

The VICE-PRESIDENT. The Secretary will read the unanimous-consent agreement.

The Secretary read as follows:

It is agreed by unanimous consent that on Friday, May 4, 1906, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill H. R. 12987, "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; the bill to be read by sections for the purpose of amendment, the discussion upon amendments offered to proceed under a fifteen-minute rule, the amendments to be disposed of when the discussion thereon is concluded.

Mr. KEAN. I can not see anything except a violation of that agreement in the motion, and therefore I do not think the motion is in order.

Mr. FRYE. Does it not dispose of an amendment if it is referred to a committee?

Mr. CULLOM. Of course.

Mr. ALDRICH. Certainly.

Mr. KEAN. With instructions to report?

Mr. FRYE. Yes; with instructions to report.

Mr. CULLOM. Mr. President—

Mr. McLAURIN. Mr. President, I rather think—

The VICE-PRESIDENT. The Senator from Illinois was recognized by the Chair.

Mr. CULLOM. I did not rise to this question. I desire to offer an amendment.

The VICE-PRESIDENT. The Senator from Mississippi will proceed.

Mr. McLAURIN. I merely rose to suggest that the unanimous-consent rule itself can be changed by unanimous consent, and if the Senator from North Carolina would change his motion to a request for unanimous consent that the amendments be referred it might be done in that way.

Mr. OVERMAN. It is not necessary. It is one disposition of the amendments to refer them back to the committee.

Mr. DANIEL. Mr. President—

Mr. McLAURIN. I merely made the suggestion.

The VICE-PRESIDENT. The Senator from Virginia has the floor.

Mr. DANIEL. I understand the Senator from Illinois desires to offer an amendment, and out of courtesy to him I yield.

Mr. CULLOM. Mr. President, we expected the Senator from Iowa [Mr. ALLISON] to be present here to-day and offer an amendment to the pending bill. We are told that he is not quite so well this afternoon as he was this morning, and he sends me word that he desires that I shall offer an amendment to the bill in his behalf. I take very great pleasure in doing that, but greatly regret that he is not here to offer it himself. I desire to offer it.

Mr. MORGAN. Does the Senator offer an amendment now or submit it as a proposed amendment?

Mr. CULLOM. I simply offer the amendment to be printed and go over, hoping that the Senator from Iowa will be here to-morrow or very soon to take charge of the amendment himself.

The VICE-PRESIDENT. The amendment presented by the Senator from Illinois on behalf of the Senator from Iowa [Mr. ALLISON] will be printed and lie on the table.

Mr. FRYE. Let the amendment, please, be read.

The VICE-PRESIDENT. The Secretary will read the amendment at the request of the Senator from Maine.

Mr. RAYNER. As I desire to offer an amendment to that amendment, may I send it to the table and have it read in connection with the amendment?

The VICE-PRESIDENT. It may be read following the amendment proposed on behalf of the Senator from Iowa.

Mr. RAYNER. I will then send up the amendment to have it read.

The VICE-PRESIDENT. After the Secretary has finished the reading of the amendment presented by the Senator from Illinois the amendment of the Senator from Maryland will be read.

Mr. RAYNER. It comes in after the word "courts" in the present amendment.

The VICE-PRESIDENT. The Secretary will read the amendment presented by the Senator from Illinois on behalf of the Senator from Iowa [Mr. ALLISON].

The SECRETARY. On page 10, lines 20 and 21, strike out the words "and fairly remunerative."

On page 11, line 5, after the word "prescribed," strike out the remainder of said line and down to and including the word "carrier," in line 7, and insert in lieu thereof the following:

All orders of the Commission, except orders for the payment of money, shall take effect within such reasonable time and shall continue in force for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission.

On page 14, line 20, after the word "proper," insert a period and strike out the remainder of line 20 down to and including the word "effect," on page 15, line 2.

On page 17, line 11, after the words "United States," insert the words "against the Commission."

On page 17, line 14, after the word "office," insert the following:

And if the order or requirement has been made against two or more carriers then in the district where any one of said carriers has its principal operating office, and if the carrier has its principal operating office in the District of Columbia, then the venue shall be in the district where said carrier has its principal office, and jurisdiction to hear and determine such suits is hereby vested in such courts.

On page 17, line 18, after the word "suits," insert the following: "including the hearing on an application for a preliminary injunction."

On page 18, line 6, after the word "causes," add the following proviso:

Provided, That no injunction, interlocutory order, or decree suspending or restraining the enforcement of an order of the Commission shall be granted except on hearing after not less than five days' notice to the Commission. An appeal may be taken from any interlocutory order or decree granting or continuing an injunction in any suit, but shall lie only to the Supreme Court of the United States: *Provided further*, That the appeal must be taken within thirty days from the entry of such order or decree, and it shall take precedence in the appellate court over all other causes except causes of like character and criminal causes.

On page 19, line 22, after the word "order," strike out all of the remainder of the section.

Mr. ALDRICH. Mr. President, I suggest that we have a reprint of the bill with these amendments inserted in their proper places in italics.

The VICE-PRESIDENT. Without objection, it is so ordered. The Secretary will now read the amendment proposed by the Senator from Maryland [Mr. RAYNER] to the amendment just read.

Mr. BACON. I did not understand the Senator from Rhode Island. Does the Senator ask for a reprint of the bill?

Mr. ALDRICH. For a reprint of the bill with the amendments just read inserted in italics, in order to see the precise effect.

Mr. BACON. There are other amendments.

Mr. CULBERSON. Mr. President, I object to the suggestion of the Senator from Rhode Island. The proposed amendment is merely the individual proposition of a Senator and not that of a committee. I see no reason why those amendments should be printed in the bill and others not, and I object to the request for unanimous consent.

Mr. ALDRICH. The purpose of my suggestion must be perfectly apparent to the Senate. It is that we may have a better understanding of the effect of the amendments. It was not for any other purpose. I certainly had no ulterior purpose in making the suggestion.

Mr. CULBERSON. Certainly; I understand that, Mr. President.

Mr. ALDRICH. And I have never known a request of that kind to be denied before in the Senate. It is simply made for the convenience of Senators.

Mr. CULBERSON. I have been in the Senate a very short time in comparison with the Senator from Rhode Island, but I have never known before of a suggestion being made that a proposition of a single Senator should be printed in italics with the bill itself.

Mr. ALDRICH. I have no objection to all the other amendments being printed in that way.

Mr. CULBERSON. I will object to that as I would to the individual proposition of a Senator being so printed. If this were an amendment proposed by the Committee on Interstate

Commerce it would be an entirely different proposition, and I would have no objection.

Mr. ALDRICH. Then, I make the request that the sections which are proposed to be amended by these amendments may be printed for the use of the Senate with the amendments suggested in italics, that we may understand their full purport.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Rhode Island as modified?

Mr. CULBERSON. Will the Senator state it again?

Mr. ALDRICH. It is that the sections of the bill as proposed to be amended by the suggested amendment may be printed separately.

Mr. CULBERSON. Separately from the bill?

Mr. ALDRICH. Separately from the bill; for the use of the Senate.

Mr. CULBERSON. I have no objection to that.

The VICE-PRESIDENT. The Chair understands the request of the Senator from Rhode Island to embrace the amendment proposed by the Senator from Iowa [Mr. ALLISON] and also the amendment proposed by the Senator from Maryland [Mr. RAYNER].

Mr. ALDRICH. I have no objection to that, although my request was for the printing of the amendment suggested by the Senator from Iowa [Mr. ALLISON].

The VICE-PRESIDENT. The Secretary will now read the amendment proposed by the Senator from Maryland [Mr. RAYNER].

The SECRETARY. To the amendment on page 17, line 14, after the word "office," it is proposed to insert certain words, and then, after the words "vested in such court," it is proposed to insert the following:

But such jurisdiction shall not attach upon the bill or petition of a carrier for the purpose of enjoining, setting aside, annulling, or suspending any order or requirement of the Commission, unless the carrier alleges in its bill or petition that its property has been taken in violation of the fifth amendment of the Constitution of the United States, or that the Commission has exceeded the jurisdiction conferred upon it by law, and in the hearing and determination of such suit the court shall be limited to said allegations so set forth in said bill or petition.

Mr. ALDRICH. If the amendment just read is to be printed with the other amendment it ought to be printed in different type, so that we may understand which is which.

Mr. RAYNER. I have no objection to its being printed in different type, but I should like it printed with the other amendment. We might distinguish the two by calling the first amendment "the President's amendment."

Mr. TELLER. Mr. President, I think we ought to have those amendments sent to the Public Printer and printed at once. We have been in the habit of doing that, and we can get the amendments back here in a couple of hours. They are important amendments, and from the present outlook it is essential that they should be printed at once. I should think we ought to have them returned from the Printer this afternoon.

Mr. CULLOM. Mr. President, the only object which can possibly be desired in connection with the printing of the amendment which I have had the honor to offer in behalf of the Senator from Iowa [Mr. ALLISON] is so that we may understand what it means, where it belongs, and what connection it has with the bill as it now stands. The Senate will observe, or doubtless did observe in the reading of the amendment which I offered, that it refers to many places and many paragraphs in the bill, and consists of different items, so that reading the amendment alone, without having the bill to make comparisons and see where the amendment comes in, would be utterly useless, because one would not know what it meant. To avoid that difficulty was, therefore, the only purpose which the Senator from Rhode Island [Mr. ALDRICH] had in view, and it was for that which he desired the amendment printed in such a way as the Senate would understand exactly its relation to the bill as it now stands.

Mr. ALDRICH. I think the suggestion which I have made, and which I understand has been adopted, will answer all the requirements of the Senator from Illinois.

Mr. CULLOM. Yes; I think so.

The VICE-PRESIDENT. The Senator from Rhode Island [Mr. ALDRICH] requests that the amendments proposed which have just been stated, one having been offered on behalf of the Senator from Iowa [Mr. ALLISON] by the Senator from Illinois [Mr. CULLOM] and the other having been offered by the Senator from Maryland [Mr. RAYNER], be printed in connection with the sections of the bill to which they are respectively directed. Is there objection to the request? The Chair hears none. The Senator from Colorado [Mr. TELLER] requests that such printing be done immediately, and, in the absence of objection, the Chair will request that that also be done.

Mr. BAILEY. I hope that both the first and last editions of

the amendment offered on behalf of the Senator from Iowa will be printed. I know as now offered it is an enlarged edition.

Mr. DANIEL. Mr. President—

Mr. KEAN. Mr. President, has the amendment proposed by the Senator from West Virginia [Mr. ELKINS] been disposed of?

The VICE-PRESIDENT. It has not been. The motion now pending before the Senate is the one made by the Senator from North Carolina [Mr. OVERMAN].

Mr. KEAN. Let it be reported, Mr. President.

Mr. DANIEL. Mr. President—

The VICE-PRESIDENT. Does the Senator from New Jersey yield to the Senator from Virginia?

Mr. DANIEL. I did not mean to interrupt the Senator from New Jersey [Mr. KEAN], who, I understand, simply rose to make an inquiry.

Mr. KEAN. Certainly, I yield. I only wanted to have the pending amendment disposed of, so that we might get along with the bill.

Mr. DANIEL. Mr. President, we have an opportunity at this time to greatly improve this bill, an opportunity to correct some of the evils that exist in the interstate commerce of this country.

I seriously doubt, Mr. President, if the motion of the Senator from North Carolina [Mr. OVERMAN] is in order, if it be so comprehensive as it seems to me on the one hearing of it which I have had. I suppose that it relates simply to the amendment of the Senator from West Virginia [Mr. ELKINS] and to the substitute offered therefor by the Senator from Mississippi [Mr. McLAURIN], though it sounded to me, and I think was expressed in still broader terms, to refer all of the amendments which have been offered on this subject to the Committee on Interstate Commerce. I would ask that it may be read as it was taken down, so that I may apprehend exactly what is the motion of the Senator from North Carolina.

The VICE-PRESIDENT. The Reporter who took the notes at that time has retired to the Reporters' room, and the Chair will send for the transcript of the notes.

Mr. DANIEL. While waiting for that, Mr. President, I will say that I appreciate the suggestion of the Senator from South Carolina [Mr. TILLMAN] that we should not be hasty in adopting any amendment on this subject. It is a very grave matter to interfere with any existing order of things. At the same time, if the existing order of things be productive of mischief and of disadvantage to the general public, it ought to be corrected; and the opportunity is now. When this opportunity may come again, no man can say.

It is difficult to effect the concentration of the attention of both branches of Congress upon any subject. The attention of one branch of Congress has been fixed to this subject, and the fruit of its action is before us. We have an opportunity now, which we may never see again for a long, long time, to mature a measure for the general advantage of the people of the United States, and this fugitive opportunity should not be abandoned.

I am one of those, Mr. President, who think that the President of the United States acted wisely in bringing this vast subject to the attention of Congress. There are many things in which I differ from him; but, Mr. President, when I do agree with any public man who is in high and responsible position there is no reason why I should not express that opinion and applaud such action as, in my judgment, tends to the general public weal. I may not agree in all that he has done about it.

We seldom agree altogether with any other human being, such is the diversity and idiosyncrasy of the human mind; but this was a subject, Mr. President, which had arisen in the public mind, one in which the public made just complaint, one in which the party to which I have the honor to belong had called the attention of the public, and one which the party to which the President belongs had absolutely ignored in all of its public utterances. It took courage on the part of the President to bring this matter to the attention of the people of the United States as he did; and for his courage and for his wisdom in that regard I do applaud him, without saying that I agree in all the operations of his mind upon this subject.

One of the impediments to fair commercial intercourse between the different trading communities of the United States is the engaging by common carriers in the carriage of great masses of produce, not for the public benefit, but for their own behoof and advantage. This is a thing which Congress should be disposed to stop as rapidly as it reasonably can; and the opportunity is now.

There is nothing in the history of any rate bill or of any railroad legislation in this body to especially stimulate the hope that we will be nearer a solution of this problem by referring it to the Interstate Commerce Committee of this body. That com-

mittee consists of an able body of men. It can at least be said of them that they have been very patient in their deliberations and that they have not laid before the Senate as yet any full and complete report of the operations of their minds upon this subject such as its gravity and dignity seem to call for; neither has that committee indicated any disposition to speed any bill which has been referred to it.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. I do.

Mr. ALDRICH. I was about to suggest to the Senator from Virginia that this specific subject has never been referred to that committee and has never been before them officially.

Mr. DANIEL. That is true, Mr. President; but when the committee has been occupied for a year or more in investigating all of the questions which arise in interstate commerce, it would not have been impertinent to this subject if the committee had itself suggested an amendment.

I am not intending, Mr. President, to make any severe criticism on that committee. I know the difficulties which environ them and I am slow to censure any of my colleagues, as those who are not aware of their difficulties and environments might do; but I simply say that if these amendments be so referred and shall not move faster than other measures have moved, the Senator will be an older and wiser man when he sees the solution of this problem than he is now.

Mr. OVERMAN. May I ask the Senator a question?

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from North Carolina?

Mr. DANIEL. With pleasure.

Mr. OVERMAN. The Senator from Iowa [Mr. DOLLIVER], one of the leaders on the other side of the Chamber, rose in his place and asked the Senate to disagree to those amendments. After he had made that speech I preferred, rather than have those amendments voted down, that we send them to the Committee on Interstate Commerce, with the instruction of this body to report a bill carrying out the Senator's ideas at the earliest practicable moment. I want to say that I indorse what he says as to the necessity for this legislation, and I heartily approve of it.

Mr. DANIEL. If the Senator could add to his resolution an assurance that that bill would get the attention of both Houses of Congress within any reasonable time, I might appreciate its force more than I do under existing and well-known conditions.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from Rhode Island?

Mr. DANIEL. With pleasure.

Mr. ALDRICH. I happened to be out of the Chamber when the motion was made by the Senator from North Carolina. Do I understand him now to say that the committee is to be instructed to report a bill in accordance with the wishes of the Senator from Virginia? Is that the motion?

Mr. OVERMAN. No, sir.

Mr. ALDRICH. That is the statement made by the Senator from North Carolina, and so long as I was not advised as to what the views of the Senator from Virginia are, I did not know how such a motion could very well be made.

Mr. OVERMAN. I only spoke as to my own personal views on the subject, that the committee should be instructed to report a bill.

Mr. ALDRICH. You were not indorsing the views of the Senator from Virginia in instructing the committee?

Mr. OVERMAN. No, sir.

Mr. DANIEL. Mr. President, if that committee should report here a bill, who knows that it would ever be heard of? If a bill on this subject separate and to itself is reported to this body, who can give any assurance that it will ever get the attention of both branches of Congress? We have here a great measure on this subject, and it is at a time when the minds of this body are addressed to the study of the questions involved in that bill and all connate questions; and now, Mr. President, I repeat, is the opportunity for those who desire some remedies to be perfected and embodied in this measure to debate questions as they arise and to invite action thereupon. I do not know that any of these amendments will be voted down. I have not heard sufficient expression of opinion on that subject to form any judgment thereupon. We can not tell until the sense of this Chamber is taken, and we can only acquire that sense by debating the matter and by laying before our colleagues the considerations pro and con.

Now, Mr. President, I shall address myself briefly to the consideration of these amendments as they now stand. I do

not think the amendment offered by the Senator from West Virginia [Mr. ELKINS] takes hold of this case by the right handle, and I do not think that any amendment which seeks to interdict the competition of carriers themselves with their customers ought to be involved with any other question that can be avoided. If there is a clear conception to subserve, put that conception separate to itself and let it stand on its own merits, without involving other questions which are not essential to the main issue.

I think, Mr. President, and with diffidence and deference I submit that the following amendment, which I had the honor to prepare and sent up to the Secretary's table on yesterday afternoon, will reach the main gravamen of the complaints of the people which have been so numerous. For the words used in the amendment of the Senator from West Virginia I would substitute the following:

It shall be unlawful for any common carrier to transport from one State, Territory, or District of the United States to another State, Territory, or District of the United States or to any foreign country any article or commodity whatever which may be owned by it or in which it has any interest, excepting such as are necessary for its own use in its business as a carrier and not intended for sale, barter, or commercial traffic of any sort.

The VICE-PRESIDENT. The Chair is obliged to inform the Senator that his fifteen minutes have expired.

Mr. McCUMBER. Mr. President, I think the Senator will find that the amendment which I offered this morning covers the same subject in very much fewer words and will reach everything that he seeks to reach.

I only desire now to call attention to the proposition that was made by the Senator from Pennsylvania [Mr. KNOX]. I believe the Senator from Pennsylvania in his very brief remarks challenged the authority of Congress, under the constitutional provision allowing Congress to regulate interstate commerce, to so regulate it as to interfere with the sale of any products lawfully accumulated in any State by any common carrier and transmitted to another State for sale. As an illustration, the Senator referred to the production of lumber by a railway company in the State of South Carolina, to be sold outside of the State of South Carolina, and, if I understood his position correctly, it was to the effect that Congress had no such power.

Mr. KNOX. Mr. President—

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Pennsylvania?

Mr. McCUMBER. Certainly.

Mr. KNOX. With this important qualification, that the commerce as carried on shall be conducted under such circumstances as to do no injustice or injury to anyone else conducting the same business—in other words, that the power of Congress over the subject rests upon the right to regulate transportation between the States, and in the regulation of transportation between the States it may prescribe the rules by which that transportation is to be conducted, and among other rules that it may prescribe is the rule of freedom of competition and the rule of nondiscrimination. In the case of a carrier lawfully engaged under the laws of the State that chartered it, notwithstanding the charter of the State and notwithstanding its dealing with the products of the State, taken from the soil of the State, Congress could prohibit it from entering the channels of interstate trade if in the carrying on of that interstate trade it under any arrangement had an unlawful advantage over any of its competitors. That is the position I sought to make clear this morning. That is as far as I went.

Mr. McCUMBER. I thoroughly agree with that proposition, Mr. President, but I can not understand how it is possible for a railroad company mining its own coal and shipping it absolutely free, without any charge whatever—of course, it could not charge itself for moving its own products—can enter into the markets of another State on equal grounds with other producers of coal, whether in the other State or in the State from which the coal is transported. The very fact that it gets practically free transportation places it in a position where it has the power to sell cheaper than other producers, so that in the sale of its products it is not meeting its competitors upon equal grounds.

It clearly seems to me that Congress has power, under its authority to regulate commerce, to provide that no such advantage shall be held by the common carriers against their competitors. If that is true, then, under the illustration that was given by the Senator from Pennsylvania in the case from South Carolina, it would seem clear that the Congress could interdict the corporation created in the State from selling outside of the State or dealing in commodities of that character.

The Senator gave, as another illustration, the case referring to lottery tickets. Of course, that case was decided principally

upon the ground that lottery tickets themselves are not the subject of commerce; they are not a lawful product of any State; but, on the contrary, are unlawful. As against that, however, I call attention to the act of Congress to cure a defect in the law that was demonstrated in the Iowa liquor cases. The production of beer by the breweries in any State is considered at all times to be a perfectly legitimate business. Under the laws of the State of Iowa it was attempted to apply the local law as soon as the product should arrive in the State. As the Federal law then stood, it was held by the Supreme Court that the local laws of the State of Iowa could not operate upon the articles in original unbroken packages. Until the packages had been broken and the articles were distributed, they were subjects of interstate commerce. Congress passed a law to remedy that; and in that law it was provided simply that the moment any of these articles of interstate commerce—legal and proper articles in the State in which they were produced—entered into another State, they should immediately become subject to the police power of that State. So that, while the articles produced may be subjects of interstate commerce and while the laws of the State make them legally subjects of commerce, it seems to me clear, from that case, that Congress may step in and, under its authority to regulate commerce, may determine whether or not the corporation may deal in those particular articles as articles of interstate commerce.

Mr. SPOONER. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Wisconsin?

Mr. McCUMBER. Certainly.

Mr. SPOONER. Does the Senator contend that there is no limitation upon the power of Congress to regulate commerce?

Mr. McCUMBER. I do not think that Congress can so regulate commerce as to destroy property rights, for instance, entirely under the authority to regulate. There are quite a number of limitations. Regulation does not carry with it, in my opinion, the power absolutely to destroy.

Mr. KNOX. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Pennsylvania?

Mr. McCUMBER. Certainly.

Mr. KNOX. Does the Senator believe that Congress can regulate commerce in such a way as to regulate production within the borders of the States?

Mr. McCUMBER. It does indirectly in many ways.

Mr. KNOX. I admit it can indirectly.

Mr. McCUMBER. We can pass no direct law the effect of which would be to limit the production in the State; but a law of this kind certainly would not directly limit it. It simply regulates; and that regulation may indirectly limit the production.

Mr. SPOONER. Will the Senator permit me again?

Mr. McCUMBER. Yes.

Mr. SPOONER. Does the Senator think, then, that it is within the constitutional capacity of Congress to prohibit any manufacturing company or producer in a State from shipping its product from State to State without first getting a license from the Government of the United States?

Mr. McCUMBER. That is a very far-fetched question, it seems to me, as affecting this case.

Mr. SPOONER. What I want to get at is the limit, if there is one, to the power of Congress to regulate.

Mr. McCUMBER. I do not think that the power of Congress to regulate would include the power to prohibit the introduction from one State to another of goods that could legitimately be carried from one State to another—if that is what the Senator means. That would not be a regulation whatever.

Mr. President, I simply desire to say one word in reference to the amendment of the Senator from West Virginia. I think the substitute could be well adopted. It is clear and to the point, and, under the suggestion made by the Senator from New Jersey, it might be amended, if it is to be adopted, by inserting the time at which it shall take effect. If any danger should arise because of these companies having a large amount of coal or other products on hand, dealing in which the amendment prohibits, we could fix some future time at which the amendment should take effect.

Mr. SPOONER obtained the floor.

Mr. SIMMONS. Mr. President—

Mr. SPOONER. I yield to the Senator from North Carolina.

Mr. SIMMONS. Mr. President, I am in favor of legislation to remedy the evils denounced by the several amendments of the Senators from West Virginia, North Dakota, and Mississippi. But, Mr. President, it seems to me obvious that the Senate is

not in possession of sufficient information upon this subject to enable us to wisely and safely legislate.

For more than two years the attention of the country and of the Senate has been focused upon the great question of rate legislation. During the past summer a committee of this body sat almost continuously, making investigations and gathering facts upon which to predicate legislation. For more than two months now this body has been discussing this great question. Senators are in possession of the great mass of information gathered by the committee. For months they have been studying the many and complex questions of law involved. Notwithstanding all of this investigation and study, we find ourselves, with respect to some features of the pending measure, troubled with perplexing doubts and divided views.

Now, suddenly there is injected into this legislation another question. If not equally as important, if not equally as far-reaching, certainly it is a big question and one which requires investigation and consideration for safe and wise solution. Only a few days ago the Senator from South Carolina [Mr. TILLMAN] for the first time brought this question before the Senate in a definite form. I think the Senator from Rhode Island [Mr. ALDRICH] stated, and stated correctly, that it has never yet been considered by any committee of this body. I repeat, the subject covered by these amendments is a big question, a question with many ramifications, and if we should to-day incorporate in this measure some hasty and ill-advised provisions upon this subject, we would be in danger in attempting to remedy one wrong of doing another wrong.

Who is prepared to say, upon the hasty consideration we have given this subject to-day, operating as we are under the fifteen-minute rule, without adequate data and information as to its effects upon the many and varied interests concerned, what would be the effect upon these interests in this country of the adoption of either one of the amendments proposed by the Senators? If we should adopt the amendment proposed by the Senator from West Virginia, I fear the effect would be to greatly embarrass and cripple certain important enterprises in my State.

Mr. DANIEL. What industry is that?

Mr. SIMMONS. Railroad building and the manufacture of lumber. There is, as I will show later, a very important connection between these in my State at this time.

I have no doubt that there are great evils growing out of the conditions which exist in Pennsylvania, Ohio, Illinois, and West Virginia by reason of the fact that some of the railroads in those States are also the owners of many of the coal mines and that they are operated conjointly. There is a just and powerful public sentiment that these evils should be remedied. But there is, I think, no demand for hasty or immature legislation.

The Senator from Pennsylvania [Mr. KNOX] has alluded to the conditions in my State. I do not refer to them for the purpose of using them as an argument against the proposed amendments, but for the purpose of showing what might be the effect upon these conditions if the amendment proposed by the Senator from West Virginia, for instance, should be adopted. There is to-day in my State an era of railroad construction. That is especially true in the eastern section of the State, in the great pine-tree region of the State. Nearly every railroad that is to-day in process of construction in that section of the State is being built by corporations that are interested in the manufacture of lumber. They have bought immense tracts of timber land; they have built great plants upon those lands, and they are now constructing railroads to and through them. Nearly every one of these railroads has its basing point outside of the State of North Carolina. The timber does not lie upon streams. The most of that has long since been cut. The timber that remains is in the interior, so to speak. It can only be reached by railroads. In some instances the railroad would be worth but little without the timber, and the timber but little without the railroad. There are at least 200 miles of railroad being constructed in my State to-day, much of it to develop timber lands owned by those who are building them, and the market for all of that timber is outside of the State, making this interstate business.

Mr. President, I am in favor of effective legislation by which the evil aimed at by the amendments can be reached. The evil is so great that I am free to say here to-day if it becomes necessary to destroy connections, such as I have spoken of as existing in my State, I am ready, if necessary, to destroy those connections and divorce these other interests, however embarrassing and repressive may be the consequences, in order that the people may have relief from the discrimination and oppressions of monopoly.

But we have had this subject before us for only a short

time; it was injected here only yesterday evening as a proposed amendment to this bill, and I submit that we are not in a condition to take final action to-day upon this question. I want it understood that, if necessary, I am willing to go as far as any other Senator upon this floor to accomplish the end and result these amendments have in view. The question I wish to raise is whether we are ready and prepared at this time to legislate, and whether, if we shall proceed hastily and without fuller discussion and consideration, we are not in danger of making a mistake and of injuring interests that might be protected and yet the people given the relief which they demand and to which they are entitled.

Mr. BAILEY. Mr. President, I would regard it as an un-mixed misfortune for the Senate to recommit this matter to the Committee on Interstate Commerce. If it should take that committee—and I mean no reflection on it—as long to report a bill on this subject as it did to report the bill upon the main subject, the people would lose heart before the Congress could take action. The Senator from North Carolina [Mr. SIMMONS] suggests that this question is as important as the main question, and measuring it by its importance we might expect an almost interminable delay.

I know there is no Senator in this body more earnestly in favor of efficient and prompt action upon this subject than the distinguished Senator from North Carolina [Mr. OVERMAN] who made this motion. But I sincerely hope he will be convinced that if this matter goes back to the committee it may not be brought into the Senate, as already suggested, until the next session, and the next session, being a short one, is apt to adjourn without any relief being afforded to the people from these very oppressive and indefensible practices.

I believe, Mr. President, that in the history of legislation no greater good was ever sought to be accomplished than the good which will be accomplished by the less than eight lines of this amendment. As I understand, the Senator from West Virginia, accepting the suggestion that was made to him yesterday, has provided that this prohibition shall rest against the carrier from engaging in interstate commerce when he engages in these prohibited transactions. With that correction, I do not myself feel the least doubt as to the constitutionality of the provision. We are not required to defend a total prohibition of commerce under this amendment.

Mr. SPOONER. Which is that?

Mr. BAILEY. This is the amendment of the Senator from West Virginia [Mr. ELKINS] as amended by the Senator from Minnesota. This is only a regulation of interstate commerce. The carrier can relieve itself from the prohibition by simply conforming to what every man admits to be a wholesome public policy. In the Lottery case, to which I referred yesterday, it was an absolute, total prohibition against interstate commerce in that article. Here the prohibition rests only against a carrier who does certain forbidden things, and that carrier relieves himself of the prohibition and resumes his normal and proper business of transporting goods from State to State whenever he surrenders the doing of that which it is not the business of any common carrier to do.

If you take the sense of the Senate, I do not believe there is a single Senator who will write in the Record—and they would not be afraid to record it there if it was their judgment—as his deliberate judgment that a common carrier ought to engage in business except that for which a common carrier is intended. A common carrier is given great rights and privileges; it exercises a power and a faculty of government; it appropriates to its use a citizen's property; and no person, natural or artificial, who exercises a faculty and a power like that ought to be permitted to engage in the ordinary vocations of life.

We must take the common carrier and segregate him from the balance of the community. We must recognize that rules and limitations apply to him which apply to no other citizen or corporation, and we can never properly deal with this question unless we keep that steadily and always in our mind.

With a Senate that is practically unanimous in favor of excluding a carrier who exercises the privileges and seeks the profits of a merchant, manufacturer, or a miner from interstate commerce, it looks to me like there is wisdom enough in the Senate to draft in its open session a provision to carry that deliberate and unanimous judgment into effect. For my part I am willing to go on record that the amendment now pending is sufficient to accomplish its object. If it be not, then, when this bill goes to a conference committee, it being a matter in controversy between the two Houses, the conference committee, in the quiet of its room and at such leisure as both Houses will cheerfully accord it, can prepare this provision so that it will be clear, so that it will be constitutional, and so that it will be effective.

I would regard it as an admission of incompetence on the part of the Senate for us to say that though we all agree a given thing ought to be done, we are unable to do it for ourselves, and we, therefore refer it back to a committee for their long and patient consideration. I sincerely hope that the Senate will deal with this question now, deal with it for itself, and deal with it in a fashion that no common carrier will ever again attempt to engage in any business except its proper and legitimate one.

I would suggest, Mr. President, and then I will yield, that it might be fair and just, in order to give the common carriers an opportunity and time to adjust themselves to this new and proper condition, that the amendment should take effect on the 1st day of January, 1908. I hardly think a common carrier could ask time in order that he might quit doing what he ought never to have done in the first place; but in dealing with it as a condition, I am willing to afford them a reasonable time in which to dispose of their improper and illegal possessions, and in order that there may be no serious interruption of interstate transportation and travel, I will vote for that kind of a provision.

Mr. LA FOLLETTE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. BAILEY. Certainly.

Mr. LA FOLLETTE. I should like to ask the Senator from Texas whether it would not be possible to include with the proposition which he now suggests this, in addition, that in the meantime they shall not go on acquiring coal lands and oil lands?

I noted but a few days ago that one of the railroads in the southwestern part of this country had invested some \$15,000,000 in coal lands in New Mexico. If we are to wait for legislation to become operative, I suggest we ought to find some means to put the bars up against corporations acquiring vast holdings of coal and oil lands and other products that they are to transport.

Mr. BAILEY. I thoroughly agree with the statement of the Senator from Wisconsin, and if it is believed that the knowledge that they can not hold such property will not prevent them from acquiring it between the passage of this law and the time when the provision shall take effect it would undoubtedly be right to include such a provision as the Senator from Wisconsin has suggested.

My own idea was that if you provided expressly that after the 1st of January, 1908, they should not be permitted to engage in interstate commerce if they also engaged in the prohibited industries, that itself would be sufficient to restrain them. But surely the suggestion of the Senator from Wisconsin can do no harm, and it might do good. Therefore I should be very willing to support it.

Mr. OVERMAN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from North Carolina?

Mr. BAILEY. I do.

Mr. OVERMAN. Mr. President, I shall not allow myself to be put in the position of delaying this matter. If there is so much distrust of the committee itself and there is such doubt expressed as to whether or not we will have a report from that committee, I will withdraw my motion.

I made the motion, sir, because I knew that the Senate had passed a joint resolution instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies in coal and oil, and report on the same from time to time. I wish to read from the joint resolution:

Fifth. That said Commission be also required to investigate and report the system of car supply and distribution in effect upon the several railway lines engaged in the transportation of coal or oil as aforesaid, and whether said systems are fair and equitable, and whether the same are carried out fairly and properly; and whether said carriers, or any of them, discriminate against shippers or parties wishing to become shippers over their several lines, either in the matter of distribution of cars or in furnishing facilities or instrumentalities connected with receiving, forwarding, or carrying coal or oil as aforesaid.

Sixth. That said Commission be also required to report as to what remedy it can suggest to cure the evils above set forth, if they exist.

Seventh. That said Commission be also required to report any facts or conclusions which it may think pertinent to the general inquiry above set forth.

I knew that the Commission had been investigating these matters; I knew they had the testimony before them, and following the Senator from Iowa, the author of this bill and the leader, when he asked the Senate to disagree to the amendments, I thought it better, sir, to have this matter referred back to the committee, with instructions to report forthwith upon this subject, and give us a bill that was sensible and wise and would destroy no property and would give the relief that the people seek. But since so much doubt has been ex-

pressed that there will be delay and that we will not get the report even at the next session, I withdraw the motion.

Mr. BAILEY. I am gratified that the Senator from North Carolina refuses to allow a motion of his to be used for the purpose of delay. I am sure that that Senator knows that I would be the last man in this body to believe that he would intend anything of the kind. I know him well enough to know that his purpose is to deal with everything in the open. I know that his purpose is to protect the people.

No provision, in my judgment, touching the regulation of commerce is more important than this. If we could adopt an amendment which would keep the rates established by the Commission in effect until the final judgment of the court, and if we could divorce the business of transportation from the business of production and distribution, we would earn the gratitude of this country for a thousand years to come. If we can not do both, let us at least do one, and if we do neither, the people of this country will, and the people of this country ought to, settle with us for our failure to do that which plainly we ought to do.

Mr. DRYDEN. Mr. President, I am very glad to know that the Senator from Texas agrees with the principle of a suggested amendment which I mentioned this morning, and I have no criticism to make upon what the Senator says upon that point except that in my judgment the time proposed by him—

The VICE-PRESIDENT. The Chair suggests to the Senator from New Jersey that he understands that the Senator has already spoken once upon this subject, and, if the Chair is correct—

Mr. DRYDEN. I am going to offer an amendment. I offer the amendment now.

The VICE-PRESIDENT. The Senator's amendment would not be in order now, the question being on the amendment proposed by the Senator from Mississippi to the amendment of the Senator from West Virginia.

Mr. DRYDEN. Can I submit an amendment to lie upon the table until it can properly be acted upon?

The VICE-PRESIDENT. The Senator can do that.

Mr. DRYDEN. I will ask, then, whether, if the substitute of the Senator from North Dakota is adopted in lieu of the amendment of the Senator from West Virginia, the amendment of the Senator from North Dakota so adopted would then be open to amendment?

The VICE-PRESIDENT. The Chair would prefer to decide that question when it properly arises.

Mr. DRYDEN. It is a very important matter for me, Mr. President, to know whether I shall be in a position to offer an amendment later on or not. May I ask what is the real question now before the Senate?

The VICE-PRESIDENT. The question is upon the amendment offered by the Senator from Mississippi in the nature of a substitute for the amendment proposed by the Senator from West Virginia.

Mr. SCOTT. Let us have it read.

The VICE-PRESIDENT. At the request of the junior Senator from West Virginia, the amendment proposed by the Senator from Mississippi will be again read.

The SECRETARY. In lieu of the amendment proposed by the Senator from West Virginia [Mr. ELKINS] insert:

It shall be unlawful for any corporation that mines or manufactures or produces any article or commodity of commerce for sale to engage in the business of interstate commerce as a carrier of any of its own products, mining, or manufacture; and it shall be unlawful for such corporation to charge, demand, collect, or receive any money or other thing for the carriage, as a carrier of interstate commerce, of any of the like kind of articles or commodities produced, mined, or manufactured by any other person, company, or corporation, and for a violation of this provision the person paying such charge or demand may recover in any State or Federal court having jurisdiction of the subject-matter an amount triple the amount so collected or paid, together with all costs of collection, including attorney's fees and costs of travel to and from and attendance upon court. If any such corporation shall engage in the business of a carrier of such articles or commodities as intrastate carrier it shall be unlawful for such corporation to engage in interstate commerce as a carrier of any kind of commerce.

Mr. DRYDEN. Mr. President, when I addressed the Senate before it was my intention to speak, and I supposed I was speaking, to the amendment of the Senator from West Virginia. I did not intend to speak to the amendment proposed by the Senator from Mississippi.

The VICE-PRESIDENT. The Chair would ask the Senator from New Jersey if his amendment, which has not been reported, and which he contemplates introducing, is an amendment to the amendment of the Senator from West Virginia, as modified?

Mr. DRYDEN. I understand the amendment which I propose at the proper time to offer would at this time be out of order, as there is an amendment to an amendment now pending

before the Senate, and therefore it would not be parliamentary for me now to offer another amendment.

The VICE-PRESIDENT. The Chair does not know the character of the amendment proposed by the Senator or the particular subject to which it is addressed, and therefore he inquires for information.

Mr. FORAKER. As I understand it, the Senator spoke before the amendment was offered by the Senator from Mississippi.

The VICE-PRESIDENT. If so—

Mr. FORAKER. And he spoke only to the amendment offered by the Senator from West Virginia. It is his clear right to speak to the substitute offered by the Senator from Mississippi.

The VICE-PRESIDENT. If so, the Senator would clearly be in order on the amendment proposed by the Senator from Mississippi.

Mr. DRYDEN. That was my position, as I understood it.

The VICE-PRESIDENT. The Senator is entirely in order.

Mr. DRYDEN. I am sorry I have already consumed a good deal more of the time of the Senate in trying to ascertain my position than I shall now consume in stating it.

The VICE-PRESIDENT. The time so consumed will not count against the Senator.

Mr. DRYDEN. Mr. President, the principle involved in the remarks of the Senator from Texas, which I very briefly outlined this morning in a few remarks of my own, I think are most important, and it is of the greatest necessity to incorporate it in this amendment if it is to pass the Senate.

Sensors, consider for a moment the situation. Here are these great coal-carrying companies supplying 80,000,000 people with the products of their mines. They furnish what to-day is the only facility for getting this necessary product to market. Their arrangement, whether by ownership, by leasing these properties, or by any other contract, is such that the properties to a very large extent are under the control of these companies.

Now it is proposed, as the amendment now stands, to wrench the management and control of the properties furnishing this great necessity suddenly out of their places, and what disposition is it proposed to make of them?

Is there a single line in the amendment which has been proposed here, or in any one of the amendments which have been proposed as substitutes, that deals with this important phase of the question? Who is going to mine the coal owned now by these great railroad companies? Who is going to carry it to market? When the people want coal, of whom are they to get it? Is there any proposition for supplying them? I have heard none. I have not heard any even intimated in the discussions here. Yet without warning, without a single hour in which to readjust these momentous matters, it is proposed to legislate here and to revolutionize one of the greatest interests and one of the most important lines of business in this country.

I say to Senators a step like this would be fatal to the American people, and it would bring on this country a calamity which has never been paralleled in our whole history. I ask Senators to pause in the face of this tremendous matter and give it due consideration. I propose for the consideration of the Senate an amendment to the amendment of the Senator from West Virginia. I understand that it can not be formally received now, but I ask that it may lie upon the table. I wish the Secretary to take it down:

That on and after July 1, in the year 1911.

It comes in previous to the beginning of the proposed amendment of the Senator from West Virginia, and I am sure that even a most superficial consideration of this great matter will cause Senators to pause and give due weight to its importance.

The VICE-PRESIDENT. The Chair will state to the Senator from New Jersey that his amendment as now stated by him is in the direction of perfecting the amendment of the Senator from West Virginia, and is therefore perfectly in order. The amendment in the nature of a substitute can only be in order after the original amendment of the Senator from West Virginia is perfected. The question, therefore, is upon the amendment proposed by the Senator from New Jersey to the amendment of the Senator from West Virginia.

Mr. DRYDEN. I thank the President of the Senate, and am glad to know the amendment is in order now.

Mr. BAILEY. Will the Senator from New Jersey, before he resumes his seat, permit me to answer a question he asked and which I did not interrupt him to answer at that time?

Mr. DRYDEN. Certainly.

Mr. BAILEY. The Senator asked where the people would get their coal if Congress passed a law like this. I answer that the railroads would give the independent coal operators some-

thing like the number of cars to which they were entitled when they could not use them themselves.

Mr. DRYDEN. Does the Senator from Texas think that the independent coal operators of this country, with their organization as it is to-day, with their facilities for getting coal to market as they exist to-day, could begin to supply the demand of the American people?

Mr. BAILEY. Mr. President, I answer by saying that if that is true, the extent of railroad manipulation of the coal supply is greater than I suspected it to be, and shows the necessity for prompt and vigorous action. If the people of this country can not be supplied with coal without permitting the common carriers to violate the plainest and soundest public policy, then I am sure this ought not to be referred to any committee, but it ought to be passed promptly.

Mr. McCUMBER. Mr. President—

The VICE-PRESIDENT. Does the Senator from New Jersey yield to the Senator from North Dakota?

Mr. DRYDEN. Certainly.

Mr. McCUMBER. May I ask the Senator a question right here?

Mr. DRYDEN. Certainly.

Mr. McCUMBER. In a very short time could not a coal company be incorporated and organized that would go right on with these mines and conduct them in the same way, with the exception that they would have to pay the freight on the coal that any private producer would have to pay? Would not that be the immediate result of the proposed law?

Mr. GALLINGER. Would not that be a trust?

Mr. DRYDEN. Mr. President, there are two matters proposed here for me to comment upon. In the first place, in reply to the Senator from Texas, if it is not the gravamen of the complaint against these great carrying companies that they monopolize the markets, that they hold the public by the throat, then what does all the denunciation we have been hearing amount to? If the independent operators can supply the public, why this outcry against the railroads—against an evil which does not exist?

Mr. BAILEY. They can not supply them because they can not get cars. The railroads now use their cars in hauling their own coal, and, according to the repeated declarations made here, they decline to supply independent operators with sufficient cars.

Mr. DRYDEN. What the Senator from Texas needs, then, is more railroads.

Mr. BAILEY. Not of the kind which misuse their customers and oppress their competitors.

Mr. DRYDEN. The Senator from North Dakota [Mr. McCUMBER] has asked me a question. It is a very easy thing in theory to talk about what may be done with enormous interests and enormous properties, but every practical man knows that you can not take great properties, involving hundreds of millions of dollars, and regulate them by a rule of thumb. These vast interests ramifying into every portion of the country, involving, as they do, sacred trusts, can not be turned over in the twinkling of an eye. These great property interests must be managed conservatively and carefully or they will bring on conditions which will inflict irreparable injury upon every part of the country.

I say it would be utterly impossible to take these great properties, if they began to be of the magnitude which has been stated here and elsewhere, and turn them over without sufficient time to do it. My proposition allows five years, and that is a short time in which to readjust the conditions which would result from the passage of this amendment.

I want it to be understood here and now that I am not opposing the amendment. I am not opposing any fair, reasonable, and workable plan which will bring about the result sought to be accomplished by the amendment. I do not think it is the wisest way to legislate to bring a matter of great national importance of this kind on the floor of the Senate for debate without the careful scrutiny and deliberation of the committee to whom it may be committed; but if it is to be passed, let us at least adopt those measures which it must be obvious to every reflecting man are necessary for the security of the people and of the great interests involved.

Mr. McLaurin. Mr. President, I desire to add a proviso, in pursuance of what has been suggested, to the amendment that I offered.

The VICE-PRESIDENT. The Senator has a right to perfect his own amendment. The proviso will be read by the Secretary.

The SECRETARY. Add at the end of the proposed amendment the following words:

Provided, That the provisions of this amendment shall not take effect until the 1st day of May, 1908.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from New Jersey to the amendment of the Senator from West Virginia.

Mr. ALDRICH. Mr. President, I think there is a practical agreement in the Senate that the business of transportation by interstate carriers ought to be divorced from the business of production by the same carriers. But these amendments raise a large number of novel, intricate, and very important questions—questions as to the right of Congress, the standard of the power of Congress, to regulate commerce. I think the suggestion of the Senator from West Virginia [Mr. ELKINS] involves for the first time in the history of this country a proposition to forbid a common carrier to engage in interstate commerce, or to prevent a common carrier from engaging in interstate commerce, as a penalty for doing something in a State which is absolutely and perfectly lawful in that State and which the carrier is authorized to do by its charter and by the State authority.

Mr. TILLMAN. In some instances; not always.

Mr. ALDRICH. In an instance.

Mr. TILLMAN. I say in some instances that is the case.

Mr. ALDRICH. I say it is the first time that any such attempt as that has ever been made, I think, in our history as a country, and whether we can do it or ought to do it I suggest to the Senator is a very grave matter. I myself do not believe that it is necessary to go to that extent to prevent this evil, because I conceive it to be an evil.

The Senator from Texas says that if this amendment should go to the Committee on Interstate Commerce—and that opinion seemed to be shared by some other Senators—it would probably never be heard from again, judging from our experience in the consideration of the bill which is now before the Senate. It is true that the Committee on Interstate Commerce was engaged in the consideration of this bill for a number of weeks and that it failed to arrive at a conclusion as to any amendments which it would recommend to the bill; but I suggest to the Senator from Texas and to other Senators that the experience of the Senate in this regard might perhaps be an excuse for not affording a prompt relief or making a prompt report upon a measure of this kind.

I suggest that no Senator has any right to say that the Interstate Commerce Committee would not consider this matter fairly and promptly. The subject-matter of the amendment does not belong to the legislation which we are now considering. It is a kind of discrimination, if it has any place at all or has been legislated upon at all, which is affected by the so-called "Elkins law" and by the provisions of the existing interstate-commerce law, which forbid discriminations.

The recent decision of the Supreme Court in the Chesapeake and Ohio case points clearly to a remedy by Congress for this condition of affairs.

The number and the character of the amendments which are now before the Senate show conclusively that this matter can not properly be acted upon in this manner. The very amendment which the Senator from Texas commends as a model provision is remarkably full of holes, if I am any judge of legislation or of the English language.

It says that no carrier engaged in manufacturing shall engage in interstate commerce; but no penalty is provided, except the penalty that engaging in interstate commerce must cease. Who is to be punished by that penalty?

Mr. BAILEY. Mr. President—

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Texas?

Mr. ALDRICH. Certainly.

Mr. BAILEY. The Senator from Rhode Island knows that the general penalty clause of the bill would apply to this.

Mr. ALDRICH. But the penalty in this case is an absolute prohibition of engaging in interstate commerce.

Mr. BAILEY. That is true. That is an additional penalty.

Mr. ALDRICH. How is that to be enforced and against whom is it to be enforced?

Mr. BAILEY. I thought the Senator from Rhode Island—

Mr. ALDRICH. Who is to suffer by this penalty? Not the carrier itself, but the people of the country through which the road runs.

Mr. BAILEY. I thought the Senator from Rhode Island was complaining that there was nobody to suffer. Of course, if he now wants to say that everybody suffers, that is all right.

Mr. ALDRICH. The trouble is that everybody is to suffer—

Mr. BAILEY. Well, if everybody is to suffer—

Mr. ALDRICH. But perhaps the carrier least of all.

Mr. BAILEY. If everybody—

Mr. ALDRICH. The party which is the guilty party is to suffer least of all.

Mr. BAILEY. It is a little remarkable that the carrier, who

is to suffer least of all, is complaining most about this legislation.

Mr. ALDRICH. I do not know that the carrier is complaining, unless the Senator says that I am a carrier. I am complaining.

Mr. BAILEY. Oh, no, Mr. President; I am not one of those who are always insinuating that the Senator from Rhode Island is actuated by a bad motive. I think the Senator from Rhode Island is just as good as the Republican party. He generally votes the same way that all other orthodox Republicans vote, and, like all of his party associates, he "gets together," and when he can not make the other man surrender, he claims that the other man has surrendered. He has an illustrious example of that, however, in the head of his party, who makes a virtue of his surrender by claiming a victory. I am not one of those who are always impugning the motives of the Senator from Rhode Island, and I do not mean to insinuate that he is a carrier; but I do say he is the carrier's "next best friend" in this legislation. [Laughter.]

Mr. ALDRICH. Mr. President, what I am trying to point out to the Senate in this case is that this provision, which has the commendation of the Senator from Texas as a perfected piece of legislation which he is asking us to vote upon now and not to refer to a committee, contains no penalty, except to exclude the carrier if he is guilty of manufacturing an engine or of repairing a car, except the exclusion—

Mr. BAILEY. The Senator is mistaken. There was an express exception in the amendment which the Senator from Minnesota [Mr. CLAPP] sent to the desk.

Mr. ALDRICH. But the exception is—

Mr. BAILEY. It permits a carrier to mine coal for its own use.

Mr. ALDRICH. It permits the carrier to mine coal and to produce other commodities. Does that mean the repairing of a car?

Mr. BAILEY. For their own use; yes.

Mr. ALDRICH. Why? How?

Mr. BAILEY. Because that is for its own use.

Mr. ALDRICH. Well, but it is manufacturing.

Mr. BAILEY. I understand; but if a man manufactures for his own use he is not interfering with—

Mr. ALDRICH. But the amendment does not state that.

Mr. BAILEY. The Senator has the wrong amendment; that is all.

Mr. ALDRICH. I have the amendment as to which I asked the Senator from Texas if it was the amendment he had in view, and he said it was.

Mr. BAILEY. I supposed the Senator from Rhode Island was accurate enough to get the amendment which I described as the amendment which the Senator from West Virginia [Mr. ELKINS] accepted from the Senator from Minnesota [Mr. CLAPP].

Mr. ALDRICH. This is an amendment intended to be proposed by Mr. ELKINS, as modified. I do not know what amendment the Senator refers to. I should be glad to have it.

Mr. BAILEY. The Senator from Minnesota [Mr. CLAPP] will hand the Senator from Rhode Island what I have approved.

Mr. CLAPP. Here it is [handing paper to Mr. ALDRICH].

Mr. ALDRICH. The Senator from West Virginia [Mr. ELKINS] seems to have seven or eight different amendments and modifications here; and it is not at all strange that any Senator should be somewhat confused as to which particular amendment it was that the Senator from Texas commended.

Mr. BAILEY. Nothing would please me better than to see the Senator from Rhode Island and the Senator from West Virginia engage in "a fight to a finish on this question." [Laughter.]

Mr. ELKINS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from West Virginia?

Mr. ALDRICH. The amendment handed me by the Senator from Minnesota [Mr. CLAPP] purports to be, on its face, an amendment intended to be proposed by Mr. DANIEL as a substitute for the amendment. [Laughter.]

Mr. TILLMAN. Will the Senator from Rhode Island yield to me for a moment?

Mr. ALDRICH. I would lose my time if I should do so.

Mr. ELKINS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from West Virginia?

Mr. TILLMAN. I was asking the Senator from Rhode Island to yield to me.

The VICE-PRESIDENT. The Senator from West Virginia [Mr. ELKINS] first rose. Does the Senator from Rhode Island yield to him?

Mr. TILLMAN. It is for the Senator from Rhode Island to decide as to which Senator he will yield.

Mr. ALDRICH. Wait a moment. The amendment which is now given me by the Senator from Minnesota [Mr. CLAPP] is the precise amendment that I had in my hand and from which I was reading. [Laughter.]

Mr. TILLMAN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from South Carolina?

Mr. ALDRICH. And that shows the utter confusion which has arisen in regard to this matter.

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from South Carolina?

Mr. ALDRICH. I will yield to anybody who can explain this matter. [Laughter.]

Mr. CLAPP. Mr. President, I rise to a question of personal privilege.

The VICE-PRESIDENT. The Senator from Minnesota will state his question of privilege.

Mr. CLAPP. It is that the amendment which the Senator from Rhode Island [Mr. ALDRICH] first read from was not the same as the one I subsequently handed him. [Laughter.]

Mr. ALDRICH. I will ask that it be read from the desk by the Secretary to see if he can discover any difference between the two. I can not.

Mr. TILLMAN. Will the Senator from Rhode Island yield to me?

Mr. ALDRICH. I will after the amendment has been read.

Mr. BAILEY. Let us have this question settled.

Mr. ALDRICH. The Senator from Minnesota [Mr. CLAPP] informs me that the written words in the print do not belong there.

Mr. CLAPP. The written words do not belong there.

Mr. ALDRICH. I should like to have it read.

The VICE-PRESIDENT. The Secretary will read as requested.

The SECRETARY. Amendment intended to be proposed by—

Mr. ALDRICH. Let the Secretary just read the language of the amendments without the headings.

The Secretary read as follows:

It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity, to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity, to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

Mr. ALDRICH. Now I yield to the Senator from South Carolina [Mr. TILLMAN].

Mr. BAILEY. Before that—

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Texas?

Mr. ALDRICH. I do.

Mr. BAILEY. The Senator from Rhode Island, then, was mistaken when he said that the amendment which he had in his hand did not provide for that exception. I was taking the word of the Senator from Rhode Island that he had the right amendment.

Mr. ALDRICH. I beg the Senator's pardon. It did provide for producing various commodities; but not in relation to the thing that I was asking about, the repairs of cars, manufacturing, etc.

Mr. TILLMAN. Will the Senator from Rhode Island yield to me?

Mr. ALDRICH. I will; but my time is passing.

Mr. DANIEL. Will the Senator yield to me for a moment?

The VICE-PRESIDENT. The Chair will state that interruptions will be taken from the fifteen minutes belonging to the Senator from Rhode Island.

Mr. ALDRICH. I will yield to the Senator from South Carolina for a question.

Mr. TILLMAN. The Senator mentioned a moment ago that there were several amendments offered by the Senator from West Virginia [Mr. ELKINS].

Mr. ALDRICH. Yes.

Mr. TILLMAN. I have the whole catalogue of the amendments which have been offered, which my clerk has prepared; and I notice that the Senator from West Virginia has one on page 7, one on page 29, one on page 33, one on page 35, one on page 87, one on page 101, one on page 127, one on page 129, one on page 145, one on page 147, and one on page 161. So he has got a pretty good flock of them. [Laughter.]

Mr. ELKINS. Mr. President—

Mr. ALDRICH. I was not talking about the amendments of—

Mr. ELKINS. Will the Senator allow me?

Mr. ALDRICH. No; I have not the time. I have but a minute left.

The VICE-PRESIDENT. The Senator from Rhode Island declines to yield.

Mr. ALDRICH. I was not discussing the amendments of the Senator from West Virginia as offered to this bill generally, but there are some half a dozen amendments or modifications of amendments on this particular subject offered by the Senator from West Virginia with the assistance of various Senators on both sides of the Chamber.

Mr. ELKINS. Now, Mr. President, will the Senator allow me?

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from West Virginia?

Mr. ALDRICH. I do.

Mr. ELKINS. I want to correct the Senator from Rhode Island. He stated that there were a half dozen amendments offered by the Senator from West Virginia on this subject. There is but one amendment offered by the Senator from West Virginia now before the Senate, and that is the one pending. Why, then, does he go to search for a lot of other amendments which I have not offered?

Mr. ALDRICH. The Senator did offer an amendment, which was in printed form, which he has certainly modified two or three different times.

Mr. ELKINS. I have not—

Mr. ALDRICH. And which has been printed two or three different times.

Mr. ELKINS. I had two amendments on this subject, but offered only one of them. So the Senator is entirely incorrect in his statement when he says that I have offered six or seven amendments. I have not done so. I have offered but one.

Mr. ALDRICH. I admit that there is but one amendment that is now pending before the Senate, because there could be but one. If there had been within the range of parliamentary law any possibility of having more than one pending, the Senator would have had them pending. [Laughter.]

Mr. ELKINS. The Senator did me an injustice in saying that I had five or six amendments on this subject. I will be entirely satisfied if the Senator will vote for this one.

The VICE-PRESIDENT. The Chair is obliged to announce that the time of the Senator from Rhode Island [Mr. ALDRICH] has expired.

Mr. ALDRICH. Then I will speak later upon some other amendment.

Mr. LODGE. Mr. President, I think it is fairly demonstrated that there is a good deal of confusion in regard to these amendments. All I desire to say is that it seems to me that the best way to deal with this most important question would be to send it to the committee and have a proper bill presented to the Senate. I personally should not care to vote for that disposition of the subject, unless I could be assured beyond any reasonable peradventure that the matter would be disposed of at this session of Congress.

I think the question involved in this amendment is more important by far than all the local discriminations which this bill undertakes to cure. I do not think that, having given the whole winter to this subject, we can afford to adjourn this session without acting on it.

The ownership by the railroad companies of these great properties which comprise the necessities of life is an admitted evil. The attitude of the Supreme Court in the Chesapeake and Ohio case recognizes such ownership as contrary to sound public policy. It is idle to say that we are unable to deal with it or to stop it. If we are to be paralyzed in dealing with such an evil as this, then the interstate-commerce clause in the Constitution is utterly vain.

I should much prefer, as I have said, to see this matter referred to the committee if we can be assured that we shall deal with it conclusively and finally at this session; but, without that assurance and without that understanding, I think the Senate had better deal with it here to-day and to-morrow and for a week, if necessary, until we shall have secured suitable legislation that shall put an end to the operation by the railroads of great natural productions, which are absolutely vital to the well-being of the people of this country.

Mr. CLAPP. Mr. President, I shall detain the Senate but a moment. The question of the relation between the ownership and the production of coal and other commodities is not a new question. We had it before our committee a year ago this very month. We took testimony on it, and it was the testimony of railroad men. The greatest manager of transportation in the

world to-day candidly stated that they ought to be absolutely divorced.

This subject has been considered, not by reference to the committee, but certainly by members of the committee, and it must have been considered by everyone who has contemplated the ultimate dealing with this question at this session of Congress.

Personally I have always insisted to the Senator from West Virginia that this measure belonged properly in the bill as an amendment to the law of 1903; but he felt during all this time that it would be impossible to get this measure through as a separate provision of law, and therefore was anxious to have it adopted as an amendment to this bill.

I fully agree with the Senator from Virginia [Mr. DANIEL] that now is the proper time to dispose of this question. The fact that when we act we may interfere with people who have engaged in this business jointly will always confront Congress when Congress shall seek to act upon this question.

There never can be a solution of a great question designed to cure a great evil but that it may perhaps operate as a hardship upon some one. I believe a reasonable time given for the operation of this bill would be sufficient to relieve it of that objection.

I agree with the Senator from Massachusetts that if there could be an assurance that we could deal with this subject and dispose of it at this session it might be well to consider it in the committee; but we should have not only the delay incident to committee investigation, but we should have the delay incident to legislation in both Houses of Congress, and at a time when both Houses are being crowded with the current business as it approaches the closing hours of the session. Therefore, Mr. President, realizing the importance of this question, nevertheless I for one shall feel constrained to vote to dispose of it at this time as an amendment to the pending bill.

Mr. BEVERIDGE. Mr. President, before the Senator takes his seat—

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from Indiana?

Mr. CLAPP. With pleasure.

Mr. BEVERIDGE. Does the Senator think, if this were in the form of an independent bill, that the Senate should give it considerable time in legislating upon it and passing it?

Mr. CLAPP. Only so far as considering the details of the provision. The fact that this is an evil is a recognized fact; the fact that production and transportation should be divorced is a recognized fact; and the fact that hardship will flow from that divorce for the time being must be a conceded fact.

Mr. BEVERIDGE. All of those things there is no question about; but what I am asking the Senator now is a practical question of legislation. He said that if the bill were reported from the committee it would take considerable time in the process of legislation.

Mr. CLAPP. Certainly.

Mr. BEVERIDGE. That, I assume the Senator means, would be because it is an important subject which should have the patient consideration of the Senate before it is passed?

Mr. CLAPP. Not necessarily. It would be for this reason—

Mr. BEVERIDGE. Well, for any reason.

Mr. CLAPP. Ninety Senators would have ninety opinions that would have to be thrashed out, just as they have to be thrashed out to-day.

Mr. BEVERIDGE. That brings me to the question that I finally wanted to ask the Senator. If he thinks it would consume time to deal with this subject properly if it were an independent bill, does he think that it will take less time to deal properly with this subject as an amendment to this bill?

Mr. CLAPP. It may take no less time; but dealing with it as an amendment to this bill assures its being dealt with and passed at this session of Congress.

Mr. BEVERIDGE. I am quite willing to do that, but I wanted the Senator's opinion upon that subject. That it is very important that we should not presently act upon it seems to me to be clear.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from South Carolina [Mr. TILLMAN].

Mr. FORAKER. I want to ask the Senator from Minnesota [Mr. CLAPP] a question, if I may, before he takes his seat. The Senator says that he desires a vote upon this proposition now. I want to know whether or not he has determined yet in what form he thinks this amendment should be adopted? When the Senator from West Virginia [Mr. ELKINS] offered the amendment the Senator from Minnesota drafted it in a different form, expressing what is understood to be the same proposition; but I do not know whether that is before the Senate or not. Can the Senator tell me?

Mr. CLAPP. I understand that it is before the Senate on the motion of the Senator from West Virginia.

Answering the Senator's first inquiry, I will say that I know just what I would vote for if I were framing the amendment, but I have no pride of opinion. The same object is covered substantially by the amendment of the Senator from Virginia [Mr. DANIEL]—that is, to put a stop to the union of transportation and production. The only way we can reach it is to prohibit the producer from engaging in interstate traffic.

Mr. FORAKER. I hope the Senator will not take his seat for a moment. I am quite as earnest about accomplishing that purpose as the Senator can be. I have repeatedly stated that on the floor of the Senate; but I am at a loss, in view of the many propositions that have been presented, to know to which one to give preference; and the Senator has given so much attention to this subject that I have great confidence in his judgment about it, and I want to get the benefit of his opinion.

Mr. CLAPP. If the Senator has such confidence in my judgment, it is my deliberate judgment that the Senate can spend time to no better advantage than by taking up now, at this time, and reconciling these views and working out an amendment to this bill.

Mr. FORAKER. I agree with the Senator about that; but I want to know which one of these propositions the Senator is advocating, if he can tell me, and if he is advocating any one in particular—

Mr. CLAPP. Will the Senator vote for the one I advocate?

Mr. FORAKER. I do not know whether I will or not.

Mr. CLAPP. Then what difference does it make to the Senator which one I advocate?

Mr. FORAKER. I probably would vote for it, because I think my mind runs very much as the Senator's does; but if the Senator can not tell me which one he advocates, he has no right to ask me if I will vote for the one he advocates. I am asking him in good faith. The Senator from West Virginia [Mr. ELKINS] offered an amendment. It was printed, and it was read to the Senate. We all understand what it provided. He offered only one amendment. Then the Senator from Minnesota [Mr. CLAPP], not being satisfied with that or for some reason—I do not know what the reason was—made a draft of an amendment to take the place, as a substitute, of the amendment offered by the Senator from West Virginia. That was read, and it is printed in the Record; but I do not know whether it is before the Senate or not. Nobody seems to know whether it is or not. I saw a while ago that the Senator from New Jersey offered an amendment to the amendment of the Senator from West Virginia as printed.

Mr. CLAPP. I thought the Senator desired to ask me a question.

Mr. FORAKER. The Senator had yielded the floor.

Mr. CLAPP. I beg the Senator's pardon. He insisted that I should retain the floor.

Mr. FORAKER. I insisted that the Senator should retain the floor until I could get an answer to a question.

Mr. CLAPP. I want to answer if I can get an opportunity to do so.

Mr. FORAKER. I want to try to find out in good faith what we are considering.

Mr. CLAPP. Give me a moment.

Mr. FORAKER. If the Senator will wait until I get ready, I will give him a moment. The Senator from New Jersey offered his amendment, not to the substitute that was prepared by the Senator from Minnesota and which the Senator from West Virginia had read from the desk as a substitute, as I understood, but to the original amendment of the Senator from West Virginia, and we have been proceeding here as though this original amendment was still before the Senate. I wanted to know to what amendment the Senator was speaking, if he could tell me. I do not know whether it is this one, or the other one, or the amendment offered by the Senator from Virginia [Mr. DANIEL], or the amendment offered by the Senator from Mississippi [Mr. McLAURIN].

Mr. CLAPP. Mr. President, in answer to the Senator's question, my own personal choice of an amendment would be as follows:

It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or other commodity to engage in interstate commerce: *Provided*, That nothing in this act shall be construed to prevent a carrier from mining coal or producing other commodities exclusively for its own use.

Mr. FORAKER rose.

Mr. CLAPP. One moment. It has been suggested—and perhaps the suggestion is a wise one—to limit that prohibition to the articles produced by the carrier. It has further been suggested—and no doubt that suggestion is a wise one—that a

time be fixed in the future when the provision shall take effect. Those are all matters that follow the general central thought of the prohibition, and upon which it does seem to me the Senate ought to be able to come to some rational agreement.

Mr. FORAKER. I am very much obliged to the Senator, for he has answered just about as I supposed he would; but still I do not know what is before the Senate as the amendment that is being considered. By that I mean, Mr. President, that I do not know whether the Senator from West Virginia is still insisting upon his original amendment or whether we are considering the amendment that was drafted by the Senator from Minnesota, which he has just now read from the Record, which I understood the Senator from West Virginia to offer as a modification of his amendment yesterday.

Mr. LODGE. As a means of solving these doubts, I suggest that the Secretary read the pending amendment.

The VICE-PRESIDENT. The pending amendment is the one proposed by the Senator from West Virginia [Mr. ELKINS], which the Secretary will state.

Mr. FORAKER. I make this inquiry, Mr. President: Certainly the Senator from West Virginia yesterday offered as a modification of his own amendment the amendment that has just now been read by the Senator from Minnesota—

Mr. ELKINS. If the Senator will allow me to interrupt him, I did not accept that substitute.

Mr. FORAKER. Oh, then, it is all cleared up. I understood that the Senator did accept it.

Mr. ELKINS. No; I said if it reached the purpose at which I aimed, which was the correcting of this evil and abuse, then I would accept it.

Mr. LODGE. Mr. President—

Mr. FORAKER. I did not yield the floor. I want to speak briefly.

Mr. LODGE. I ask that the pending amendment be read.

The VICE-PRESIDENT. At the request of the Senator from Massachusetts, the amendment of the Senator from West Virginia will be stated.

Mr. ELKINS. I desire to say that on motion of the Senator from New Hampshire [Mr. GALLINGER] the words "authorized by its charter to do so" were stricken out. The amendment will stand now with those words stricken out.

The SECRETARY. The Senator from West Virginia originally offered the following—

Mr. LODGE. Mr. President, the amendment I desire to have read is the amendment that is pending, not what the Senator from West Virginia originally offered.

The VICE-PRESIDENT. The Secretary will state the amendment that is pending.

The SECRETARY. The amendment proposed by the Senator from New Jersey—

Mr. LODGE. I do not mean the amendment to the amendment. I know there is an amendment to the amendment. I asked for the reading of the amendment, not the amendment to the amendment.

The VICE-PRESIDENT. The Secretary will read the amendment of the Senator from West Virginia.

Mr. DANIEL. Mr. President, the substantive proposition now before the Senate, as I understand, is the substitute offered by the Senator from Mississippi [Mr. McLAURIN].

The VICE-PRESIDENT. The Chair would suggest that the amendment before the Senate now is an amendment to further perfect the amendment of the Senator from West Virginia.

Mr. TILLMAN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from South Carolina?

Mr. LODGE. I still adhere to my belief that the best way to find out what amendment is pending is to have the pending amendment read; and I ask that it be read.

The VICE-PRESIDENT. The Secretary will read as requested.

Mr. TILLMAN. Will the Senator from Massachusetts yield to me for a moment?

Mr. LODGE. Mr. President, I want the amendment read. I do not want some other Senator to tell me what is the pending amendment, but I want the Secretary to read it.

Mr. TILLMAN. I did not want to tell the Senator what the pending amendment was.

The VICE-PRESIDENT. The Secretary will read.

The SECRETARY. The pending amendment is the amendment of the Senator from New Jersey—

Mr. LODGE. That is an amendment to the amendment.

Mr. TILLMAN. I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from South Carolina will state his parliamentary inquiry.

Mr. TILLMAN. We have had so many amendments, substi-

tutes, and amendments to amendments, and so many speeches by Senators who have no right, under the unanimous-consent agreement, to get on their feet any more, that we are "all balled up," if I may use the expression; and, if I am in order, I move to lay the pending amendment and all amendments thereto and substitutes therefor on the table, because I want to offer one myself and get started over again.

Mr. FORAKER. Mr. President—

Mr. LODGE. That motion is not debatable.

The Secretary proceeded to read as follows:

It shall be unlawful for any common carrier engaged in producing, manufacturing, buying, furnishing, or selling, directly or indirectly, coal, coke, or any other commodity, to engage in interstate commerce.

Mr. ALDRICH. I rise to a question of order, Mr. President.

The VICE-PRESIDENT. The Senator from Rhode Island will please state his question of order.

Mr. ALDRICH. I understood the Senator from South Carolina [Mr. TILLMAN] to move that the pending amendment and the amendment to which it is offered as an amendment lie upon the table.

The VICE-PRESIDENT. That is the motion.

Mr. LODGE. That does not cut off reporting the amendment.

The VICE-PRESIDENT. The Chair so understands, and intended to present the motion of the Senator from South Carolina to the Senate after the amendment had been stated.

Mr. FORAKER. Before we undertake to lay the amendment on the table, we ought to know what the amendment is.

Mr. LODGE. If the Senator will allow the Secretary to report the amendment, which is the only thing in order, we shall know.

Mr. FORAKER. That is what I am waiting for.

The VICE-PRESIDENT. In order that the Senate may clearly understand the question, the Chair will restate it. The Senator from South Carolina moves to lay on the table the pending amendment and amendments incident thereto.

Mr. DANIEL. I rise to a parliamentary question.

The VICE-PRESIDENT. The Senator from Virginia will state his parliamentary inquiry.

Mr. DANIEL. A point of order was made against the motion of the Senator from South Carolina to lay on the table—that he made a speech before making the motion, which was not in order.

The VICE-PRESIDENT. The Chair will submit the question to the Senate.

Mr. BACON. Does the Chair propose to submit to the Senate the question whether a motion to lay on the table is in order?

The VICE-PRESIDENT. That is precisely the question.

Mr. BACON. The Chair will pardon me for a moment.

The VICE-PRESIDENT. Yes.

Mr. BACON. Upon the particular ground stated by the Senator from Virginia, or whether it is generally in order? The reason I ask the question is if the latter—

Mr. ALDRICH. Mr. President, this is debate.

Mr. BACON. I desire to make a point of order. A motion to lay on the table is not in order—

The VICE-PRESIDENT. The Chair is going to submit to the Senate the question whether the motion is in order.

Mr. LODGE and Mr. ALDRICH. This is debate.

Mr. BACON. I desire to say a word on that subject.

Mr. LODGE. I understood the Chair to say that he proposed to submit the question of order to the Senate.

The VICE-PRESIDENT. The Chair does.

Mr. LODGE. That is not debatable.

The VICE-PRESIDENT. The Chair so understands and will recognize no Senator for debate until that question is disposed of.

Mr. BACON. Mr. President—

The VICE-PRESIDENT. The Senate will recall that on Thursday or Friday last the Chair submitted to its consideration whether, under the unanimous-consent agreement, a motion to lay an amendment on the table before the close of the debate under the fifteen-minute rule was in order. The Senate did not then decide the question brought to its attention by the Chair. The question now rises in a distinct and parliamentary way. Therefore the Chair will submit to the Senate the question whether the motion of the Senator from South Carolina to lay on the table is in order.

Mr. BACON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Georgia rise to a point of order?

Mr. BACON. I do.

The VICE-PRESIDENT. The Senator will state his point of order.

Mr. BACON. The point I make is that a question of order is always debatable, at least to the extent of stating the grounds on which it is based.

Mr. HALE. Not a motion to lay on the table.

Mr. BACON. The question whether the motion to lay on the table is in order is a debatable question, undoubtedly. The motion to lay on the table itself is not debatable, but whether or not, as a matter of order, that motion is in order is undoubtedly debatable. Every question of order is debatable, and the question of order which I raise is whether or not, under the consent agreement, a motion to lay on the table is in order, and I am in order, I think, Mr. President, to submit reasons why that point of order is good. If there is any rule or practice under which under any circumstances a point of order is not debatable to the extent indicated, unless it is pending some other question which does not permit of it, I do not know of it.

Mr. LODGE. Mr. President—

The VICE-PRESIDENT. The twentieth rule, section 1, reads as follows:

A question of order may be raised at any stage of the proceedings, except when the Senate is dividing, and, unless submitted to the Senate, shall be decided by the presiding officer without debate, subject to an appeal to the Senate.

Section 2 of that rule—

Mr. BACON. Mr. President—

Mr. HALE. Let us hear the Chair.

Mr. BACON. I ask the Chair's pardon.

Mr. HALE. Let the Chair complete his statement.

The VICE-PRESIDENT. Section 2 of Rule XX provides:

The presiding officer may submit any question of order for the decision of the Senate.

Mr. BACON. Undoubtedly, Mr. President—

The VICE-PRESIDENT. The Chair submits the question of order to the determination of the Senate, and he is of the opinion that neither the order nor the propriety of its submission to the Senate is debatable.

Mr. HALE. I ask, Mr. President, whether in all logic, and for the purpose of completing any business before the Senate, the submission by the Chair to the Senate of a proposition of order should not be subject to a different rule from that which would apply if the Chair ruled on the point of order. Otherwise, Mr. President, we may as well go on, because if this can be debated, then any motion to lay on the table may just as well be debated. But the stringency that is intended to follow a motion to lay on the table and which is intended to bring a conclusion, and the purpose for which it is inserted in the rule, must be followed out in its result to the question that is submitted to the Senate by the Chair on a motion to lay on the table. If not, then there is no avail in submitting it.

Mr. BACON. Mr. President, I do not for a moment question the contention of the Senator that so far as the motion to lay on the table itself is concerned, it is not debatable. The question which I raise is whether, under the terms of the particular consent order under which we are proceeding, which says that amendments shall be discussed, and after discussion shall be disposed of, a motion to lay on the table is in order before the discussion of an amendment is ended. That is my point; and I say it is undoubtedly a correct one, if the consent order means anything at all. I freely grant that after the discussion of an amendment which has been proposed it is in order for the Senate to dispose of it under the consent rule, either by voting directly upon it or upon a motion to lay on the table. But the consent order is that we shall dispose of amendments after discussion, and a motion to lay on the table is in direct contravention of and antagonism to that consent until the amendment is so discussed. Without the consent order no vote of any kind would now be in order upon these amendments. I have stated the point.

Mr. ALDRICH. Mr. President, it has been well settled here, and, I think, everywhere else, that pending a motion which is not debatable in itself all subordinate and collateral questions must be settled without debate. Otherwise, under the guise of raising questions of order, debate might be continued forever. I think the Chair is entirely right and that no discussion ought to be permitted.

Mr. BACON. The Senator would be correct if we were proceeding under the ordinary rules, but we are proceeding under a consent agreement which is in conflict with the rules.

The VICE-PRESIDENT. The question is, Is the motion of the Senator from South Carolina in order?

Mr. CULBERSON. I rise to a parliamentary inquiry. What is the motion?

Mr. LODGE. To lay on the table.

The VICE-PRESIDENT. To lay on the table the amendment

of the Senator from West Virginia and all amendments incident thereto.

Mr. CULBERSON. I make the point of order that a motion to lay all of the amendments on the table at one time can not be made. There are different amendments pending here.

The VICE-PRESIDENT. The Chair is going to leave the question to the Senate.

Mr. TILLMAN. Will the Chair indulge me for a moment? I had no purpose or desire to do other than to get the Senate out of the tangle into which we have gotten.

Mr. LODGE. Mr. President, debate is out of order.

Mr. TILLMAN. We have an amendment and an amendment to it and a substitute, and I have moved to lay them on the table.

The VICE-PRESIDENT. The Chair decides that all debate is out of order. The only question before the Senate is this: Is the motion of the Senator from South Carolina in order?

Mr. HALE. Question!

The VICE-PRESIDENT. Those who are of opinion that the motion is in order will say "aye;" the contrary "no." In the opinion of the Chair—

Mr. LODGE. I do not think that was understood.

Mr. HALE. Will the Chair again state the question, and let us have a division upon it?

The VICE-PRESIDENT. Is the motion of the Senator from South Carolina in order?

Mr. HALE. That is it. Let the Chair put that. I do not think the Chair was understood.

The VICE-PRESIDENT. Is the motion of the Senator from South Carolina in order?

Mr. CULLOM and Mr. TELLER. A division.

Mr. HALE. We may as well have the yeas and nays.

The yeas and nays were ordered.

The VICE-PRESIDENT. Those who are of opinion that the motion is in order will answer "yea" as their names are called, and those who are opposed will answer "nay."

Mr. DANIEL. I ask that the motion—

The Secretary proceeded to call the roll, and called the name of Mr. ALDRICH.

Mr. LODGE. It is impossible to hear the Secretary or anybody else.

The VICE-PRESIDENT. The Senate will be in order.

Mr. DANIEL. I ask that the motion of the Senator from South Carolina may be read for the information of the Senate.

Mr. LODGE. The first name had been called on the roll call.

Mr. DANIEL. Not when I spoke. It had not been before I addressed the Senate.

The VICE-PRESIDENT. It was not called when the Senator addressed the Chair.

Mr. DANIEL. May I be permitted to make a statement?

Several SENATORS. No! No!

Mr. LODGE. Statements are out of order.

Mr. DANIEL. I had addressed the Chair before a name was read, and the Chair referred to the fact that order should be restored.

The VICE-PRESIDENT. The Chair understands that debate is not in order, regardless of the question whether or not the roll call had been commenced.

Mr. HALE. Question!

Mr. BURKETT. May I ask a parliamentary inquiry? There is some discussion here as to what we are voting on. We are voting on the ability to entertain the motion to lay on the table, and not on the motion to lay on the table.

The VICE-PRESIDENT. Not on the motion to lay on the table, but upon the question whether the Chair shall entertain the motion.

The Secretary resumed the calling of the roll.

Mr. GALLINGER. I rise to a point of order. There is so much confusion that the responses can not possibly be heard.

The VICE-PRESIDENT. The Senate will be in order, and the roll call will be suspended until it is in order. [After a pause.] The Secretary will resume the calling of the roll.

The Secretary resumed and concluded the calling of the roll.

The result was announced—yeas 51, nays 29, as follows:

YEAS—51.

Aldrich	Dick	Kittredge	Piles
Allee	Dolliver	Knox	Platt
Ankeny	Dryden	La Follette	Rayner
Bailey	Flint	Latimer	Scott
Berry	Frye	Lodge	Smoot
Bulkeley	Fulton	Long	Spooner
Burkett	Gamble	McCreary	Stone
Carter	Gearin	Millard	Sutherland
Clapp	Hale	Morgan	Teller
Clark, Mont.	Hansbrough	Nelson	Tillman
Clark, Wyo.	Hemenway	Newlands	Warren
Crane	Hopkins	Nixon	Wetmore
Cullom	Kean	Penrose	

NAYS—29.

Alger	Clay	Frazier	Perkins
Bacon	Culbertson	Gallinger	Pettus
Beveridge	Daniel	McCumber	Simmons
Blackburn	Dillingham	McEnery	Taliaferro
Brandeggee	Dubois	McLaurin	Warner
Burnham	Elkins	Martin	
Burrows	Foraker	Money	
Clarke, Ark.	Foster	Overman	

NOT VOTING—9.

Allison	Depew	Heyburn	Patterson
Burton	Gorman	Mallory	Proctor
Carmack			

The VICE-PRESIDENT. The Chair understands that under the interpretation of the Senate the motion to lay on the table is in order. The question, therefore, is on agreeing to the motion of the Senator from South Carolina [Mr. TILLMAN] that the amendment of the Senator from West Virginia [Mr. ELKINS] and amendments incident thereto be laid upon the table. [Putting the question.] In the opinion of the Chair the "noes" have it.

Mr. HALE. Let us have the yeas and nays.

The VICE-PRESIDENT. Is there a second to the demand for the yeas and nays? In the opinion of the Chair there is not.

Mr. LODGE. A parliamentary inquiry, Mr. President.

The VICE-PRESIDENT. The Senator from Massachusetts will state his parliamentary inquiry.

Mr. LODGE. I understand the motion is to lay upon the table the pending amendment and the amendments pending thereto. Nothing else can be laid upon the table.

Mr. CULBERSON. Mr. President, a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Texas will state his parliamentary inquiry.

Mr. CULBERSON. The motion of the Senator from South Carolina is to lay on the table the pending amendment and all other amendments upon this question.

Mr. TILLMAN. The Senator is entirely wrong. I did not make any such motion.

The VICE-PRESIDENT. The Chair will ask the Senator from South Carolina to restate his motion.

Mr. TILLMAN. My motion was to lay on the table the amendment of the Senator from West Virginia and amendments thereto or substitutes therefor.

Mr. CULBERSON. That is about as I understand it.

Mr. TILLMAN. There can be but two.

Mr. CULBERSON. If it is more than one, it is in the plural.

The VICE-PRESIDENT. The Chair put the question to the Senate, and understood it to refuse to lay on the table the amendment and pending amendments thereto.

Mr. HALE. There has been so much confusion—

The VICE-PRESIDENT. The Senate will be in order. The Chair must request Senators to refrain from audible conversation in the Chamber, and the business of the Senate will be suspended until there is order.

Mr. HALE. The Senate has been so noisy it is impossible to know what has been done. I do not know what has become of the call for the yeas and nays.

The VICE-PRESIDENT. The Chair asked if there was a second to the demand of the Senator from Maine for the yeas and nays upon the question of agreeing to the motion of the Senator from South Carolina.

Mr. HALE. Mr. President—

The VICE-PRESIDENT. The Chair was of opinion that there was not a second, as not one-fifth of the Senators present seconded the call.

Mr. HALE. There was so much confusion that nobody knew that. I did not.

Mr. CULLOM. Neither did I.

The VICE-PRESIDENT. If there is doubt about it, the Chair will again ask whether there is a second to the demand of the Senator from Maine for the call of the roll? [Putting the question.] In the opinion of the Chair there is.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. MORGAN (when his name was called). I am paired with the Senator from Iowa [Mr. ALLISON].

The roll call having been concluded, the result was announced—yeas 29, nays 49, as follows:

YEAS—29.

Aldrich	Cullom	Lodge	Spooner
Allee	Dick	Long	Sutherland
Ankeny	Frye	McEnery	Tillman
Bulkeley	Hale	Millard	Warren
Burkett	Hopkins	Nelson	Wetmore
Burnham	Kean	Penrose	
Carter	Knox	Piles	
Clark, Wyo.	Latimer	Platt	

NAYS—49.

Alger	Daniel	Gearin	Perkins
Bacon	Dillingham	Hansbrough	Pettus
Bailey	Dolliver	Hemenway	Rayner
Berry	Dryden	Kittredge	Scott
Beveridge	Dubois	La Follette	Simmons
Blackburn	Elkins	McCreary	Smoot
Brandeggee	Flint	McCumber	Stone
Burrows	Foraker	McLaurin	Tallaferro
Clapp	Foster	Martin	Teller
Clark, Mont.	Frazier	Money	Warner
Clarke, Ark.	Fulton	Newlands	
Clay	Gallinger	Nixon	
Culberson	Gamble	Overman	

NOT VOTING—11.

Allison	Crane	Heyburn	Patterson
Burton	Depew	Mallory	Proctor
Carmack	Gorman	Morgan	

So the motion to lay on the table was rejected.

Mr. HALE. We have now got back to just where we started. I move that the Senate proceed to the consideration of executive business.

Mr. ALDRICH. Before that is done, I wish to state that I voted to lay these amendments on the table, because I believed that the proposition of the Senator from South Carolina [Mr. TILLMAN] was much better than the pending proposition; not that I cared to dispose of the question in that way.

I ask unanimous consent that the proposition of the Senator from South Carolina be now read, in order that it may appear in the RECORD and be taken up for consideration in the morning.

Mr. LODGE. And printed.

Mr. ALDRICH. And printed.

Mr. TELLER. Let it be printed.

Mr. GALLINGER. Mr. President, before that is done I desire to say that I voted against the motion of the Senator from South Carolina because I believed it was distinctly in violation of the unanimous-consent agreement, and for the further reason that I never had heard of the amendment to which the Senator from Rhode Island [Mr. ALDRICH] seems to have had access. I do not know what it is, and even if I had thought that we could adopt, under the unanimous-consent agreement, the motion of the Senator from South Carolina, I would not have voted for it on the ground that there was an amendment better than those pending. I think the Senate is fully capable of proceeding under the unanimous-consent agreement and disposing of this business, if it will be patient in its work.

Mr. BEVERIDGE. Before the Senator takes his seat—

Mr. HALE. I must insist, as this gives rise to debate—

Mr. TELLER. Mr. President, I want to say only one word.

Mr. BEVERIDGE. I should like to ask the Senator from New Hampshire—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Indiana?

Mr. TELLER. I do.

Mr. BEVERIDGE. I will wait.

The VICE-PRESIDENT. Does the Senator from Maine withhold his motion?

Mr. TILLMAN. I hope the Senator from Maine will permit the amendment to be printed.

Mr. SCOTT. Let the amendment be read.

The VICE-PRESIDENT. The Senator from Indiana rose to ask a question of the Senator from New Hampshire.

Mr. BEVERIDGE. I will wait.

Mr. TILLMAN. I wish the Senator from Maine would allow this proposed amendment to be printed.

Mr. HALE. I will do so.

Mr. GALLINGER. Let it be read.

Mr. HALE. Very well; let it be read. I will withhold my motion for that purpose.

Mr. TELLER. Mr. President, I wish to say, in answer to the statement made by the Senator from New Hampshire, that according to the precedents and usages laying on the table is not a violation of the consent rule in this case.

Mr. TILLMAN. Mr. President—

Mr. GALLINGER. Mr. President, that is news to me.

Mr. FORAKER. Mr. President—

Mr. HALE. I must—

Mr. GALLINGER. Where a unanimous-consent agreement specifically says that we shall dispose of an amendment after the discussion closes, and some Senator desires to discuss it, I confess it is news to me that it may be overridden by any parliamentary procedure.

Mr. TELLER. When we have agreed on a particular time to vote, that presents another question. We only agreed that the discussion should proceed in this way. I made the statement when the question was before the Senate the other day that if anybody abused the consent agreement, or we thought

it was abused, we would still have a right to move to lay an amendment on the table, for such was already the rule.

Mr. GALLINGER. But the Senator's statement does not make a rule.

Mr. HALE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Ohio?

Mr. HALE. I think it is in the interest of good legislation that the Senate should let this matter depart from its mind for the present and think of it over night. We will be in better condition to legislate to-morrow than now.

Mr. TILLMAN. Will the Senator from Maine yield to me to make a statement?

Mr. HALE. Half a dozen Senators have asked me to yield.

Mr. TILLMAN. Then I rise to a question of personal privilege.

The VICE-PRESIDENT. The Senator from South Carolina will state his question of personal privilege.

Mr. TILLMAN. When I moved half an hour ago to lay the amendment on the table I had no purpose of trying to force the Senate to consider something of my own, because it is not my own. I stated yesterday very frankly the perplexities and the magnitude of this question as it has presented itself to my mind, and I also stated that I had asked half a dozen or more great lawyers to give me the benefit of their legal ability and experience to try to frame something which would meet the difficulty.

I have here four suggested amendments, and I have three or four in my desk. None of them have ever satisfied me, because there are perplexities about this question that Senators are just beginning to realize, and the further it is discussed and the more effort is made to destroy the evil which we all recognize, without doing great harm to other interests, the greater difficulty will be found of using language and putting in provisions that will protect such cases as were instanced by the Senator from North Carolina in the lumber road and others that I have indicated.

Therefore, I hope the Senate will not consider that in moving to lay this amendment on the table it was for the purpose of exploiting myself at all, because this is not my work. I have amended it a little, but it does not satisfy me yet, and it will not satisfy the Senate. But I found the Senate had reached a point where we were, as I said, "balled up." We had an amendment, an amendment to the amendment, and a substitute for the amendment, and we apparently had got to a point where we could not do anything but talk. Senators were breaking the unanimous-consent agreement by speaking twice on the amendment of the Senator from West Virginia, when under the agreement they could not do it. So I tried to untie the knot, or to cut it; that is all. I hope Senators will not undertake to accuse me of egotism in their hearts or in other ways because I took this action. That is all there is about it. Now, I want to present the amendment, and I ask to have it printed. It is to come in at the end of section 1.

Mr. ALDRICH and Mr. GALLINGER. Let it be read.

The VICE-PRESIDENT. At the request of the Senator from Rhode Island, the amendment will be read.

Mr. HALE. The motion for an executive session is in order. Nothing else is in order.

The VICE-PRESIDENT. It is, if the Senator from Maine insists upon it.

Mr. ALDRICH. I ask that the amendment be read, so that it may go into the RECORD.

Mr. HALE. The Senator asks that and another Senator asks for another thing. I will consent that the amendment be read. After that I will insist upon the motion, and the Senate can decide as it chooses on the motion.

The VICE-PRESIDENT. Without objection, the Secretary will read the amendment sent to the desk by the Senator from South Carolina.

The Secretary read as follows:

At the end of section 1 add:

"From and after the 1st day of January, 1908, it shall be unlawful for any carrier owning or operating any railroad used in interstate commerce to engage in interstate commerce when it can be shown that such railroad, directly or indirectly, by stock ownership or otherwise, has or holds any control, part ownership, or interest in the business of mining or manufacturing or trading in any commodity transported over such railroad as interstate commerce; nor shall any such common carrier, after the date aforesaid, directly or indirectly, engage in any other business than that of a common carrier, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business as a common carrier.

"Any violation of this provision shall subject the offending common carrier to a forfeiture of \$2,000 for each offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture or forfeitures shall be recovered in a civil suit in the name of the United States, brought under the direction of the Attorney-General, in the United States circuit court for the district wherein

the carrier has its principal operating office, or in any district through which the road of the carrier may be operated."

The VICE-PRESIDENT. Will the Senator from Maine withhold his motion for an executive session until the Chair lays before the Senate a message from the President of the United States and some messages from the House of Representatives?

Mr. HALE. And for nothing else.

The VICE-PRESIDENT. And for nothing else.

ARMY SUPPLIES AT SAN FRANCISCO.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read, and, on motion of Mr. HALE, was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I herewith transmit a letter from the Secretary of War in respect to the situation as to the Army supplies at San Francisco. His letter contains appendices showing the supplies which have been transmitted to San Francisco and their cost, and set forth the necessity for an additional appropriation of \$500,000, which I recommend be made at once. This is to meet the requirements of the immediate future.

THEODORE ROOSEVELT.

THE WHITE HOUSE, May 8, 1906.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 14397) making appropriations for the support of the Army for the fiscal year ending June 30, 1907, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HULL, Mr. CAPRON, and Mr. SULZER managers at the conference on the part of the House.

ARMY APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 14397) making appropriations for the support of the Army for the fiscal year ending June 30, 1907, and asking a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WARREN. I move that the Senate insist upon its amendments, that the request for a conference by the House be granted, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and Mr. WARREN, Mr. FORAKER, and Mr. BLACKBURN were appointed.

REGULATION OF MOTOR BOATS.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 4094) to amend section 4426 of the Revised Statutes of the United States, regulation of motor boats, which was, on page 3, line 2, after the word "hire," to insert "but not engaged in fishing as a regular business."

Mr. FRYE. I move that the Senate concur in the amendment of the House.

Mr. ALDRICH. I ask that the bill, with the amendment, be referred to the Committee on Commerce. I shall have to do that. I established a precedent the other day and I will have to ask that this amendment take that course. I move that it be referred to the Committee on Commerce.

The motion was agreed to.

MARY E. DUGGER.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 1975) granting an increase of pension to Mary E. Dugger, which was, in line 6, after the name "Jefferson," to insert the initial "L."

Mr. McCUMBER. I move that the Senate concur in the House amendment.

The motion was agreed to.

FORT DOUGLAS MILITARY RESERVATION.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 5498) granting additional lands from the Fort Douglas Military Reservation to the University of Utah, which was, on page 2, line 16, to strike out all after the word "further," down to and including "Utah," line 20, and insert:

That there is reserved to the United States the perpetual right to maintain, alter, rebuild, and enlarge the sewer which runs from the Fort Douglas military post across said tract of land, or to construct and maintain a new sewer system across the same should it be desirable so to do.

Mr. SUTHERLAND. I move that the Senate concur in the House amendment.

Mr. ALDRICH. I move that it be referred to the Committee on Public Lands or whatever committee it came from.

Mr. CULLOM. It came from the Committee on Military Affairs.

Mr. ALDRICH. They can report it back to-morrow.

The VICE-PRESIDENT. The bill originally was reported from the Committee on Military Affairs.

Mr. WARREN. The matter has the full indorsement of the War Department. It has passed the Senate both as a separate bill and in the Army appropriation bill. The Senate bill now has passed the House with an amendment. I hope that the bill may receive final action here, so that the provision can be stricken out of the Army appropriation bill when it is considered by the conferees.

Mr. ALDRICH. Very well.

The VICE-PRESIDENT. The Senator from Rhode Island withdraws his motion to refer. The Senator from Utah moves that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

NORTHERN PACIFIC RAILWAY LAND GRANT.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2292) for the relief of certain entrymen and settlers within the limits of the Northern Pacific Railway land grant, which was on page 2, line 8, after the word "abandoned" to insert:

Provided, That all lieu selections made under this act shall be confined to lands within the State where the private holdings are situated.

Sec. 2. That this act shall become effective upon an acceptance thereof by the Northern Pacific Railway Company being filed with the Secretary of the Interior.

Mr. ALDRICH. I think I will have to ask that that go to the Committee on Public Lands.

The VICE-PRESIDENT. The bill and amendment will be referred to the Committee on Public Lands.

EXECUTIVE SESSION.

Mr. HALE. Mr. President, I call for the regular order. The rest of these matters can wait.

The VICE-PRESIDENT. The Senator from Maine moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 5 o'clock p. m.) the Senate adjourned until to-morrow, Wednesday, May 9, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate May 8, 1906.

REGISTER OF LAND OFFICE.

Truman G. Daniells, of Alameda, Cal., to be register of the land office at Oakland, Cal. (temporarily removed from San Francisco by Executive order of April 28, 1906), vice Aaron B. Hunt, term expired.

RECEIVER OF PUBLIC MONEYS.

Sargent S. Morton, of California, to be receiver of public moneys at Oakland, Cal. (temporarily removed from San Francisco by Executive order of April 28, 1906), for the unexpired part of his term of four years from February 4, 1903, as receiver at San Francisco.

PROMOTIONS IN THE NAVY.

Ensign Charles T. Wade to be a lieutenant (junior grade) in the Navy from the 1st day of July, 1905, after having completed three years' service in that grade.

Lieut. (Junior Grade) Charles T. Wade to be a lieutenant in the Navy from the 1st day of July, 1905, vice Lieut. Archibald H. Davis, promoted.

PROMOTIONS IN THE ARMY.

Lieut. Col. James E. Macklin, Third Infantry, to be colonel from May 8, 1906, vice Ray, Fourth Infantry, retired from active service.

Maj. Lea Febiger, detailed inspector-general, to be lieutenant-colonel of infantry from May 8, 1906, vice Macklin, Third Infantry, promoted.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 8, 1906.

ASSOCIATE JUSTICE OF OKLAHOMA.

Frank E. Gillette, of Oklahoma, to be associate justice of the supreme court of the Territory of Oklahoma.

MARSHAL.

Harmon L. Rummel, of Arkansas, to be United States marshal for the eastern district of Arkansas.

PROMOTIONS IN THE ARMY.

Corps of Engineers.

Capt. E. Eveleth Winslow, Corps of Engineers, to be major from April 2, 1906.

First Lieut. Edward M. Adams, Corps of Engineers, to be captain from April 2, 1906.

Second Lieut. John J. Kingman, Corps of Engineers, to be first lieutenant from April 2, 1906.

Infantry arm.

Second Lieut. Wallace McNamara, Twenty-seventh Infantry, to be first lieutenant from June 17, 1905.

Second Lieut. William J. Schmidt, Twenty-sixth Infantry, to be first lieutenant from June 30, 1905.

Second Lieut. David A. Henkes, Twenty-eighth Infantry, to be first lieutenant from July 17, 1905.

Second Lieut. Guy E. Bucker, Second Infantry, to be first lieutenant from July 20, 1905.

Second Lieut. Robert G. Peck, Twenty-seventh Infantry, to be first lieutenant from July 28, 1905.

Second Lieut. Robert J. Binford, Fifteenth Infantry, to be first lieutenant from July 28, 1905.

Second Lieut. John A. Brockman, Seventh Infantry, to be first lieutenant from July 28, 1905.

Second Lieut. Robert W. Adams, Second Infantry, to be first lieutenant from July 29, 1905.

Second Lieut. Sheldon W. Anding, Eighth Infantry, to be first lieutenant from August 8, 1905.

Second Lieut. William G. Murchison, Eighth Infantry, to be first lieutenant from August 8, 1905.

Second Lieut. Charles C. Finch, Eleventh Infantry, to be first lieutenant from August 11, 1905.

Second Lieut. John S. McCleery, Twentieth Infantry, to be first lieutenant from August 15, 1905.

Second Lieut. Elvin H. Wagner, Seventeenth Infantry, to be first lieutenant from August 21, 1905.

Second Lieut. Thomas W. Brown, Twenty-seventh Infantry, to be first lieutenant from August 30, 1905.

Second Lieut. Otis R. Cole, Nineteenth Infantry, to be first lieutenant from September 2, 1905.

Second Lieut. Shelby C. Leasure, Fourteenth Infantry, to be first lieutenant from September 10, 1905.

Second Lieut. Daniel E. Shean, Sixteenth Infantry, to be first lieutenant from September 12, 1905.

Second Lieut. Charles F. Herr, Nineteenth Infantry, to be first lieutenant from September 22, 1905.

POSTMASTERS.

ARKANSAS.

R. S. Coffman to be postmaster at Searcy, in the county of White and State of Arkansas.

INDIAN TERRITORY.

John McFall, jr., to be postmaster at Ramona, in District Four, Indian Territory.

NEW YORK.

Edward Bolard to be postmaster at Salamanca, in the county of Cattaraugus and State of New York.

OHIO.

William H. Antram to be postmaster at Lebanon, in the county of Warren and State of Ohio.

W. B. Bryson to be postmaster at Wooster, in the county of Wayne and State of Ohio.

Gilbert D. McIntyre to be postmaster at Orrville, in the county of Wayne and State of Ohio.

PENNSYLVANIA.

Edgar J. Graff to be postmaster at Blairsville, in the county of Indiana and State of Pennsylvania.

WEST VIRGINIA.

Mathew A. Jackson to be postmaster at Lewisburg, in the county of Greenbrier and State of West Virginia.

Horatio S. Whetsell to be postmaster at Kingwood, in the county of Preston and State of West Virginia.

HOUSE OF REPRESENTATIVES.

TUESDAY, May 8, 1906.

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

ZEBULON MONTGOMERY PIKE MONUMENT ASSOCIATION.

The SPEAKER laid before the House the bill (H. R. 13743) to provide souvenir medallions for the Zebulon Montgomery Pike Monument Association, with a Senate amendment thereto. The Senate amendment was read.

Mr. BROOKS of Colorado. Mr. Speaker, I move that the House concur in the Senate amendment.

The SPEAKER. The question is on the motion of the gen-

tleman from Colorado, that the House concur in the Senate amendment.

The question was taken; and the motion was agreed to.

BRIDGE ACROSS MISSOURI RIVER.

The SPEAKER laid before the House from the Speaker's table the bill (S. 5796) to authorize the construction of a bridge across the Missouri River and establish it as a post-road.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Kansas City, St. Joseph and Excelsior Springs Railway Company, a corporation organized under the laws of the State of Missouri, its successors and assigns, be, and they are hereby, authorized to construct a railroad, wagon, and foot bridge and approaches thereto across the Missouri River at a point on the north boundary line of Kansas City, Mo., to a point opposite the said Kansas City, Mo., on the north side of said river, in Clay County, in the State of Missouri, said bridge to be so placed as to be erected between what is known as Delaware street and Lydia avenue, in Kansas City, Mo., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, read the third time, and passed.

On motion of Mr. ELLIS, a motion to reconsider the last vote was laid upon the table.

Mr. ELLIS. Mr. Speaker, I move that the bill H. R. 18532, a similar bill to the one just passed, on the House Calendar, be laid upon the table.

The SPEAKER. The question is on the motion of the gentleman from Missouri that a similar House bill be laid upon the table.

The question was taken; and the motion was agreed to.

OFFENSES AGAINST ELECTIVE FRANCHISE.

Mr. BROOKS of Colorado. Mr. Speaker, I present herewith for filing the report of the majority on the bill (H. R. 224) in relation to the elective franchise, defining offenses against the same and prescribing punishments therefor, and I ask unanimous consent that the minority may have ten days in which to submit a minority report.

The SPEAKER. The gentleman from Colorado asks unanimous consent that the minority may have ten days in which to file a minority report on the bill just referred to. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

ARMY APPROPRIATION BILL.

Mr. HULL. Mr. Speaker, I am instructed by the Committee on Military Affairs to report back the bill (H. R. 14397) making appropriation for the support of the Army for the fiscal year ending June 30, 1907, with Senate amendments thereto, with the recommendation that all Senate amendments be disagreed to and that the House request a conference thereon; and I now move that the House resolve itself into the Committee of the Whole House for the purpose of considering the Senate amendments.

The SPEAKER. The gentleman from Iowa, by direction of the Committee on Military Affairs, reports back the Army appropriation bill with Senate amendments thereto, which is referred to the Committee of the Whole House on the state of the Union, and the question is on the motion of the gentleman from Iowa that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering the Senate amendments thereto.

The question was taken; and on a division (demanded by Mr. WILLIAMS) there were—ayes 151, noes 3.

Mr. WILLIAMS. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The gentleman from Mississippi makes the point of no quorum. The Chair will count. [After counting.] Two hundred and three gentlemen present—a quorum.

So the motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of Senate amendments to the military appropriation bill, with Mr. BOUTELL in the chair.

The CHAIRMAN. The Clerk will report the first amendment.

The Clerk read as follows:

Page 2, line 3, strike out "fifteen" and insert "twenty."

Mr. HULL. Mr. Chairman, I move that the committee recommend that the House nonconcur in the amendment just reported.

The CHAIRMAN. The question is on the motion of the gen-